

(15,477.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1894.

No. 620.

THE PATAPSCO GUANO COMPANY, APPELLANT,

*vs.*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA,  
W. R. WILLIAMS ET AL., COMMISSIONERS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR  
THE EASTERN DISTRICT OF NORTH CAROLINA.

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*Caption.*

In the Circuit Court of the United States for the Eastern District of North Carolina, held in the city of Raleigh, in the district aforesaid, before the Hon. Augustus S. Seymour, district judge of said district, presiding, sitting in equity, on Monday, the 5th day of June, in the June term of said court, in the year of our Lord one thousand eight hundred and ninety-three, convened on the first Monday in June of said year.

*Title of Cause.*

THE PATAPSCO GUANO COMPANY, in Behalf of Itself and All Other  
Non-resident Dealers and Manufacturers of Commercial Fertil-  
izers who may Come in and Make Themselves Parties Hereto  
and Contribute to the Costs and Expenses of this Suit,  
*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and W. F.  
Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E.  
Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson,  
C. D. Smith, and John Robinson, Commissioner of Agriculture.

*Filing of Pros. Bond & Original Bill.*

Be it remembered that on the 1st day of April, in the year of our Lord one thousand eight hundred and ninety-two, the Patapsco Guano Company, in behalf of itself and all other non-resident dealers and manufacturers of commercial fertilizers who shall come in and make themselves parties hereto and contribute to the costs and expenses of this suit, by their attorneys, Thos. N. Hill and

2 Juno. W. Hinsdale, filed in the office of the clerk of the circuit court of the United States for the eastern district of North Carolina, at Raleigh, in said district, their prosecution bond and also their original bill in equity against The Board of Agriculture of North Carolina and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, and John Robinson, commissioner of agriculture; which said bond and original bill are in the words and figures following, to wit:

3 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

Circuit Court at Raleigh, Fourth Circuit.

THE PATAPSCO GUANO COMPANY, in Behalf of  
 Itself and All Other Non-resident Dealers  
 and Manufacturers of Commercial Fertilizers  
 Who Shall Come in and Make Themselves  
 Parties to and Contribute to the Expenses  
 of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH CARO-  
 lina and W. S. Primrose, W. F. Green, H. E.  
 Fries, N. B. Broughton, W. R. Williams, J. B.  
 Coffield, W. R. Capehart, J. F. Payne, J. S.  
 Murrow, W. E. Stevens, S. L. Patterson, C. D.  
 Smith, A. Leazar, Elias Carr, and John Rob-  
 inson, Commissioner of Agriculture of North  
 Carolina.

} Prosecution Bond.

Know all men by these presents that we, the Patapsco Guano Co., as principal, and Geo. W. Grafflin and William H. Grafflin, as sureties, are held and firmly bound unto the defendant in the above-entitled action in the sum of two hundred dollars; to the payment of which we bind ourselves firmly by these presents.

Sealed with our seals and dated this 1st day of April, 1892.

The condition of the above obligation is such that whereas the plaintiff in the above-named cause has brought a suit against the defendant therein: Now, if the said plaintiff shall prosecute said suit with effect or in case it fail therein shall well and truly pay all such costs as shall be awarded and recovered against the said plaintiff in said action, then the above obligation to be void; otherwise it is to remain in full force and effect.

GEO. W. GRAFFLIN, *Pr's't.* [SEAL.]  
 GEO. W. GRAFFLIN. [SEAL.]  
 WM. H. GRAFFLIN. [SEAL.]

Taken and acknowledged before me this — day of April, 1892.

JAS. W. CHEW,  
*Clerk Circuit Court U. S., District of Maryland.* [SEAL.]

Prosecution bond. Filed April 14th, 1892. N. J. Riddick, clerk.



- 4 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of Itself and All Other Non-resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in and Make Themselves Parties to and Contribute to the Expenses of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and W. F. Green, W. R. Williams, R. W. Wharton, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, and John Robinson, Commissioner of Agriculture.

To the honorable the judges of the circuit court of the United States for the fourth circuit and eastern district of North Carolina:

The Patapsco Guano Company, a citizen and resident of the State of Maryland, brings this its bill in behalf of itself and all other non-resident dealers and manufacturers of commercial fertilizers who shall come in and make themselves parties to and contribute to the expenses of this suit against The Board of Agriculture of North Carolina and W. F. Green, R. W. Wharton, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, who constitute the board of agriculture of North Carolina, and John Robinson, commissioner of agriculture, citizens and residents of the State of North Carolina; and thereupon your orator complains and says:

I. That the Patapsco Guano Company is a corporation duly created, organized, and existing under and by virtue of the laws of the State of Maryland.

5 II. That it has been for a number of years engaged in Baltimore, Maryland, in the manufacture and sale of manipulated guano or commercial fertilizers of different brands, and that it has a large amount of capital invested in buildings, machinery, and materials used in the manufacture of said fertilizers of the aggregate value of over three hundred thousand dollars, and your orator states that in the general business of the manufacture of fertilizers for sale in this State and the sale of the same in this State it is not too much to say that many millions of dollars of capital are invested and used and thousand- of agents and laborers employed and paid.

III. That it has been selling said fertilizers in the State of North Carolina for a number of years, and that it has at great labor and expense built up a profitable business therein; that in conducting its said business in said State it is obliged to employ a large number of persons in different parts thereof as agents, and without such agents it could not properly or profitably conduct its said business; that the annual business of your orator in the State of North Caro-

lina amounts to upwards of one hundred thousand dollars, upon which the profits largely exceed ten thousand dollars a year.

IV. That the season for the sale of fertilizers for use on summer and fall crops has now arrived, and that your orator has manufactured a great quantity of goods and is now ready to put them on the market, and that the demand for them is already very large; that your orator is continuing and desires to continue to manufacture a large quantity of said goods, to meet the further demands of the season as it progresses.

V. That it has already shipped a quantity of its said fertilizers into North Carolina for sale, and is now shipping more and desires to continue to ship to the said State a large quantity  
6 of its said goods to meet the requirements of its trade and the increasing demand of the public for the same.

VI. That in this condition of things the defendants The Board of Agriculture and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, R. W. Wharton, who constitute the board of agriculture, and the defendant John Robinson, commissioner of agriculture of said State, all of whom are citizens and residents of the said State, the said board of agriculture being created and organized under chapter one, volume two, of the Code of North Carolina, as amended by subsequent laws, and having its office in the city of Raleigh, in the eastern district of North Carolina, give out and threaten that they will make seizures of all fertilizers which your orator has shipped or shall ship into this State unless the same shall be tagged in accordance with the act of General Assembly of North Carolina entitled "An act to amend chapter one, volume two, of the code relating to agriculture and geology," and ratified on Jan'y 21st, 1891, and that they will institute criminal prosecutions for an alleged misdemeanor against each of your orator's agents who may sell or offer for sale and against all other persons to whom your orator may sell for resale upon each and every sale or offer for sale made or to be made or attempted to be made by such agents or other persons.

VII. That the said defendants claim that your orator's goods are liable to seizure, and its agents and other purchasers for resale of its fertilizers are liable to criminal prosecutions under sections 2190,  
2191, 2192, 2193, and 2194 of the Code of North Carolina,  
7 amended by the above-entitled act, which reads as follows:

"For the purpose of defraying the expenses connected with the inspection of fertilizers and fertilizing materials in this State there shall be a charge of 25c. per ton on such fertilizers and fertilizing materials for each fiscal year ending November 13th, which shall be paid before delivery to agents, dealers, or consumers in this State: Provided, the board shall (have) the discretion to exempt certain natural materials as may be deemed expedient. Each bag, barrel or other package of such fertilizers or fertilizing materials shall have attached thereto a tag stating that all charges specified in this section have been paid, and the State board of agriculture is hereby empowered to prescribe a form for such tags,

and to adopt such regulations as will enable them to enforce this law. Any person, corporation, or company who shall violate this chapter or who shall sell or offer for sale any such fertilizers or fertilizing material contrary to the provisions above set forth shall be guilty of a misdemeanor, and all fertilizers or fertilizing materials so sold or so offered for sale shall be subject to seizure and condemnation in the same manner as is provided in this chapter for the seizure and condemnation of spurious fertilizers, subject, however, to the discretion of the board of agriculture to release the fertilizers so seized and condemned upon the payment of the charge above specified and all costs and expenses incurred by the department in such proceedings: Provided, that tags shall be attached by manufacturers, agents, or dealers to all fertilizers now in the State; those protected under licenses previously issued shall be furnished free of charge."

8      SEC. 2191. Every bag, barrel, or other package of such fertilizer or fertilizing materials as above designated offered for sale in this State shall have thereon plainly printed a label or stamp, a copy of which (shall be filed with the commissioner of agriculture) together with a true and faithful sample of the fertilizer or fertilizing material which it is proposed to sell at or before delivery to agents, dealers, or consumers in this State, and which shall be uniformly used and shall not be changed during the fiscal year for which tags are issued, and the said label or stamp shall truly set forth the name, location, and trade-mark of the manufacturer; also the chemical composition of the contents of such package and the real percentage of any of the following ingredients asserted to be present, to wit, soluble and precipitated phosphoric acid, which shall not be less than 8 per cent.; soluble potassa, which shall not be less than one per cent.; ammonia, which shall not be less than 2 per cent., or its equivalent in nitrogen; together with the date of its analyzation and that the requirements of the law have been complied with; and any such fertilizer as shall be ascertained by analysis not to contain the ingredients and percentage set forth as above provided shall be liable to seizure and condemnation as hereinafter prescribed, and when condemned shall be sold by the board of agriculture for the exclusive use and benefit of the department of agriculture.

9      SEC. 2192. The proceedings to condemn the sale shall be by civil action in the superior court of the county where the fertilizer is on sale and in the name of the board of agriculture, who shall not be required to give bond for the prosecution of said action; and at or before the summons is issued the said board shall, by its agent, make affidavit before the clerk of the said court of these facts: (1.) That charges have been paid as hereinbefore provided and the lawful tags attached. (2.) That the sample of the same filed with the commissioner of agriculture has been analyzed under authority of the board and found to correspond with the label attached to the same. (3.) That the defendant in the summons has in his possession and on sale fertilizers of the same name and brand and bearing a label or stamp representing the analysis

made; (4.) That all fertilizers on hand and on sale are spurious and do not in fact contain the ingredients or in the percentage represented by the stamp or label on them, whereupon the clerk shall issue his order to the sheriff of the county to seize and hold all fertilizers in the possession of the defendant labelled or stamped as the affidavit described, and the sheriff shall seize and hold the fertilizers so seized until ordered to be surrendered by the judge unless the defendant shall give bond, with justified surety in double the value of the fertilizers seized, to answer the judgment of the court, in which case he shall surrender the fertilizers to the defendant and file this bond in the office of the clerk of the superior court, and thereafter the action shall be prosecuted according to the course of the court, and if it shall be established in the trial that the fertilizers seized are deficient or inferior to the analysis represented on the stamp or brand then the plaintiff in said action shall recover judgment on the defendant's bond for the value of the fertilizers seized.

SEC. 2193. Any merchant, trader, manufacturer, or agent who shall sell or offer for sale any commercial fertilizer or fertilizing material without having such labels, stamps, and tags as hereinbefore provided attached thereto or shall use the required tag the second time to avoid the payment of the tonnage charge, or if any person shall remove any such fertilizer (he) shall be liable to a fine of ten dollars for each separate bag, barrel, or package sold, offered for sale, or removed, to be sued for before any justice of the peace and to be collected by the sheriff by distress or otherwise, one-half

10 less the costs to go to the party suing and the remaining half to the department; and if any such fertilizer shall be condemned as herein provided it shall be the duty of the department to have an analysis made of the same and cause printed tags or labels expressing the true chemical ingredients of the same put upon each bag, barrel, or package, and shall fix the commercial value thereof at which it may be sold, and any person who shall sell, offer for sale, or remove any such fertilizers, or any agent of any railroad or other transportation company who shall deliver any such fertilizer in violation of this section shall be guilty of a misdemeanor.

VIII. That under this law taxes amounting to between \$30,000 and \$40,000 are annually exacted from the manufacturers of fertilizers doing business in the State of North Carolina.

IX. That it is pretended and claimed that this tax is valid as a police regulation of the State of North Carolina for the maintenance of an analysing station to prevent the introduction and sale in the State of fraudulent and spurious fertilizers and for the protection of the farmers of the State from imposition by unscrupulous manufacturers and dealers, whereas not more than one-fifth of the said tax is necessary for this purpose, the residue thereof being appropriated to the support of a large number of unnecessary employees and indirectly to the support of the Agricultural & Mechanical college, which has no connection, proximate or remote, with the department of agriculture in its supervision of the fertilizer interest and its pro-

tection of the farmer as above set forth, and to many other objects and enterprises foreign to the analysis of fertilizers and the exclusion of spurious compositions from the State.

X. That the act establishing the department of agriculture distinctly provides that out of and with the taxes thus to be collected from your orator and other manufacturers and dealers in commercial fertilizers there shall be established and supported an agricultural experiment and fertilizer central station whose

11 duty it shall be to carry on an experimental farm and to analyze marls, soils, mineral and other products, drinking water and articles of food for the State geologist and other citizens of the State; to keep up a geological museum; to print the various productions of the State geologist; to prepare and publish a hand book of the mines, minerals, forests, climates, waters and water powers, fishing, mountains, swamps, industries, and all such statistics as are best adapted to give proper information to immigrants and to make illustrative expositions thereof whenever practicable at international exhibitions, and to offer premiums for the encouragement of agricultural and mechanical pursuits and the raising of improved live stock in the State, and to employ immigration agents in this and foreign countries; to establish a land and mining registry; to appropriate \$500 to the N. C. Industrial Association; to appoint and supervise a State geologist and fix his salary, who is to make surveys and reports, the expenses thereof to be paid by the agricultural department, the said geologist having authority to employ as many proper agents and assistants, to be approved by the governor, as may be necessary to enable him speedily and successfully to accomplish the object committed to his charge.

XI. That out of the receipts of the year 1891 the said board of agriculture appropriated out of the funds thus raised, in two items alone, June 19th, 1891, experiment station, \$7,000; June 20th, 1891, N. C. Car A. & A., \$2,065.51; that the said board appropriated in one item, Jan'y 27th, 1892, to board of World's Fair work, \$9,000; that thousands of dollars thus raised are paid to the public printer, and that it is perfectly manifest that but a small portion of the taxes thus collected by the defendant is required for the legitimate purpose of defraying the actual expenses of analyses of

12 commercial fertilizers, if, indeed, this be a legitimate purpose.

XII. That, as your orator is advised and believes and so charges, the said laws imposing the said tonnage tax of 25c. upon each and every ton of commercial fertilizer brought into or sold within the State, and making it a misdemeanor for any one to introduce into or sell in the State any brand of fertilizer upon which the said tax has not been paid, is simply a regulation of commerce between the States and has the result to prevent a large number of manufacturers of fertilizers in other States from shipping their goods into or selling them within the State of North Carolina; that the said law, as your orator is informed and believes, is unconstitutional and void.

XIIa. That the said law is in letter and in spirit an impost or

duty levied by the State of North Carolina upon all imported fertilizers, and, as your orator is informed and believes, is unconstitutional and void.

XIII. That your orator is informed and believes and so charges that the imposition upon it of the tax of 25c. a ton upon each ton of fertilizer shipped by it into the State and the requirement that a tag shall be purchased for each package of fertilizer is illegal and oppressive; that the attaching of such tags to their packages is wholly unnecessary, as it communicates no information to the purchaser which he did not have before and which is not to be obtained from the printed stamp or label which accompanies each package of fertilizer. One of said tags actually issued by the said commissioner and which has been duly paid for is herewith exhibited, marked "A," and prayed to be taken as part of this bill.

XIV. Your orator further shows that if the defendants are permitted to carry into execution their threat to make a seizure in every case of shipment or sale or attempted sale of your orator's fertilizers, the statute allowing them to do so without giving a bond of any sort to protect your orator against an illegal action, and if

13 they are permitted to institute criminal prosecutions at their pleasure for selling or attempting to sell fertilizers upon which the tax has not been paid, your orator and its agents and customers will be subjected to a multiplicity of interminable and oppressive suits, equally vexatious and fruitless, and to an avalanche of reckless prosecutions, and that their business in the State will be utterly destroyed and it will suffer irreparable loss and damage.

XV. Your orator further charges that the inevitable effect of the attempted enforcement of the invalid and unconstitutional law, the threats to enforce which have been already widely circulated and which must become more and more generally known among the people, and the efforts which have been made by the commissioner of agriculture, who is unable to respond in damages to your orator, to create a prejudice among the farmers against any fertilizers upon which the tax has not been paid, will be to cause many users of fertilizers to hesitate and altogether decline to purchase the goods manufactured and offered for sale by your orator; that some of them will entertain fears that the purchasers of such goods may be subjected to some penalty, or at least involve them in trouble in court or otherwise, and few persons will have either the inclination or means to investigate the question for themselves or, indeed, would be willing to act upon their own judgment if they should be prepared to form one; that thus your orator charges that, unless it shall pay the said illegal tonnage tax, the goods will have stamped upon them, in the eyes of the people, the stigma of illegality and litigiousness, and the trade and business of your orator will be irreparably damaged.

14 XVa. That within the last few days there has come to the knowledge of your orator the case of one of its agents in the city of Raleigh who has been representing it and selling the fertilizers of your orator and who through fear of involving himself in



difficulty and criminal prosecution has declined to continue to act as such agent and to make sales of your orator's goods to his customers unless said goods shall be tagged according to the fertilizer laws of the State.

XVb. That likewise, within the last few days, your orator has caused to be shipped to a party in the city of Raleigh a ton of its guano, but that the railroad company, upon receiving the same in Raleigh, has refused to make delivery to the said consignee because the said guano is not tagged according to the fertilizer laws of the State; that the said company has been forbidden by the department of agriculture to deliver any fertilizers which have not been tagged according to the said requirements of the law, and if the railroads are to be thus interfered with and prevented from transporting and delivering your orator's fertilizers in North Carolina its business in said State will be destroyed and it will suffer irreparable loss and damage.

XVI. Your orator also believes and so charges that among its competitors in business some are understood to have purchased the commissioner's tax tags, some others will no doubt do so, and among these or among the numerous agents employed by them will be found some who, for the purpose of advancing their own sales or for error as to the validity of the said fertilizer-tax law, will do what they can to decrease complainant's goods as unlawful subjects of sale or purchase and thus alarm and deter purchasers from purchasing, for which your orator will suffer irreparable loss and damage.

XVII. Your orator avers that it is in the enjoyment of a large trade in North Carolina and that, even though in the near future the said fertilizer-tax law may be shown to be illegal and its enforcement abandoned, yet the trade which your orator shall have in the meantime lost from any of the causes aforesaid and which they have built up by many years of labor and attention and the investment and expenditure of large sums of money will be exceedingly hard, if not impossible, to recover at all, and thus your orator will suffer irreparable loss and damage.

XVIII. That the damage which is thus threatened will far exceed two thousand dollars.

XIX. That they have at all times hereinbefore fully complied with and propose at all times hereafter to continue to comply with the requirements of the law of North Carolina bearing upon the conduct of their business, except as to the payment of the said illegal tax, and it has filed with John Robinson, the commissioner of agriculture, in the city of Raleigh, N. C., before making any shipment of fertilizers into the State, a true and faithful sample of its fertilizers, with a label truly setting forth the name, location, and trade-mark of the manufacturer and the chemical composition of the said fertilizer according to the law, and that every bag or pack-

age of such fertilizer that has been shipped into the State has a stamp or label setting forth the same, and that your orator proposes that all such bags or packages of such fertilizers as it shall hereafter ship into the State shall be accompanied with such

stamp or label; that it has purchased from the said commissioner of agriculture certain tags which he requires to be attached to each package of two hundred pounds of fertilizers, but it does not propose to attach the same to said packages hereafter until and unless this honorable court shall give judgment to the contrary.

XX. That the foregoing facts and conditions are sufficient to show the immediate, great, and irreparable loss and damage to which your orator is and will be subjected by the enforcement of the aforesaid illegal fertilizer-tax law and the public promulgation of the threat to execute the same by seizures and criminal prosecutions.

All of which actings, doings, and pretences of the said defendants are contrary to equity and good conscience and tend to the manifest wrong, injury, and oppression of your orator in the premises. In consideration whereof and inasmuch as your orator is entirely remediless in the premises according to the strict rules of the common law and can only have relief in a court of equity, where matters of this nature are properly cognizable and relievable—

To the end, therefore, that the said defendants and each of them may, upon their several and respective oaths, full, true, direct, and perfect answer make to all and singular the matters hereinbefore charged and stated as fully and particularly as if the same were hereinafter repeated and they thereunto distinctly interrogated, and that the said defendants and each of them and their servants,

agents, and attorneys be perpetually enjoined and restrained  
 17 from taking any steps whatever to enforce the said fertilizer-tax law against your orator or against any person purchasing for sale or use any of your orator's fertilizers and from making any seizures of your orator's fertilizers on account of the non-payment of the said tonnage tax, whether in the hands of your orator or its agents, servants, or customers or of the consumers thereof, and from instituting or causing or permitting to be instituted or prosecuting any criminal proceeding against your orator or its agents, servants, or customers on account of the non-payment by your orator or its agents of the tax aforesaid, and from instituting or causing or permitting to be instituted any prosecution or proceeding for any fine or penalties against your orator or its servants, agents, or customers for a failure to pay the aforesaid tax, and that they be enjoined from attempting by threats of seizure or prosecution or otherwise against your orator, its servants, agents, or customers, on account of the non-payment of the said tax, to interfere with your orator's trade, and that your orator may have such other and further relief in the premises as the nature of its case shall require and to your honors shall seem meet.

May it please your honors to grant unto your orator the most gracious writ of subpoena of the United States of America, to be directed to the said defendants, thereby commanding them and every of them to be and appear before your honors in this honorable court and then and there to answer all and singular the premises and to stand to and perform and abide such order and decree



therein as to your honors shall seem meet; and your orator shall ever pray, &c.

(Signed)

THOS. N. HILL,  
JOHN W. HINSDALE,  
*Solicitors for Complainants.*

18 STATE OF MARYLAND, }  
City of Baltimore. }

George W. Grafflin, being duly sworn, says that he is the president of The Patapsco Guano Company, the complainant herein; that he has read the foregoing bill of complaint and is acquainted with the contents thereof; that the same is true to his own knowledge except as to matters therein stated on information and belief, and as to those matters he believes it to be true.

(Signed)

GEORGE W. GRAFFLIN.

Subscribed and sworn before me this 4th day of April, 1892.

(Signed)

JAS. W. CHEW,

[SEAL.]

*Clerk Circuit Court U. S., District of Maryland.*

19 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of Itself  
and All Other Non-resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in  
and Make Themselves Parties to and Contribute to  
the Expenses of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA  
and W. F. Green, R. W. Wharton, W. R. Williams,  
J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S.  
Morrow, J. F. Payne, A. Leazar, S. L. Patterson,  
C. D. Smith, and J. Robinson, Commissioner of  
Agriculture.

Restraining  
Order.

On the sworn bill of complaint in the above-entitled suit, a motion being made by complainant's counsel for a preliminary injunction against the defendants and sufficient reason appearing why the same should be granted—

It is hereby ordered that upon the complainant's filing with the clerk of this court an injunction bond in the usual form, justified in the sum of one thousand dollars with two good and sufficient sureties residing in Maryland or North Carolina, that the defendants, their servants, agents, and attorneys, be enjoined as prayed in said bill of complaint in this action, let the defendants show cause before me, at chambers, in Greensboro', N. C., on 7th day of May, 1892, at 10 o'clock a. m., why the foregoing order or some order to

be made of like purport and effect should not be continued in full force and until the final hearing.

(Signed)

HUGH L. BOND,  
*C't Court Judge.*

20 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of Itself  
and All Other Non-resident Dealers and Manufact-  
urers of Commercial Fertilizers Who Shall Come in  
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and W. F. Green, R. W. Wharton, W. R. Williams,  
J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S.  
Morrow, J. F. Payne, A. Leazar, S. L. Patterson, C.  
D. Smith, and John Robinson, Commissioner of  
Agriculture.

Injunction  
Bond.

Know all men by these presents that we, the Patapsco Guano Company and George W. Grafflin and William H. Grafflin, of the city of Baltimore, are held and firmly bound unto the Board of Agriculture of North Carolina and W. F. Green, W. R. Williams, R. W. Wharton, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Morrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, and John Robinson, commissioner of agriculture, in the sum of one thousand dollars; for which sum, well and truly to be paid, we bind ourselves, our executors, administrators, and successors, jointly and severally, firmly by these presents.

Sealed with our seals this 4th day of April, 1892.

Whereas the above-named Patapsco Guano Company has applied to his honor Hugh L. Bond, United States circuit judge, for an injunction restraining the obligees above named as prayed for in the bill of complaint in suit of the said Patapsco Guano Company against said obligees in the United States circuit court for the eastern district of North Carolina and the same has been granted until the further order of the court:

21 Now, the condition of this obligation is such that if the above-bounden The Patapsco Guano Company shall well and truly pay to the said obligees, their executors, administrators, and assigns, all such damage as they may sustain by reason of the injunction if the court shall finally decide that the plaintiff is not entitled thereto, then this obligation to be void; otherwise to remain in full force and effect.

THE PATAPSCO GUANO COMPANY,  
By G. W. GRAFFLIN, *Pres'd't.*  
GEO. W. GRAFFLIN.  
WM. H. GRAFFLIN.

[SEAL.]  
[SEAL.]

Witness:

ARTHUR L. SPAMER.

STATE OF MARYLAND, }  
*City of Baltimore.* }

Geo. W. Grafflin and Wm. H. Grafflin, who executed the foregoing bond, respectively say that they are each worth two thousand dollars over and above their debts and liabilities and in excess of their homestead and personal property exemptions.

Subscribed and sworn before me this 4th day of April, 1892.

JAS. W. CHEW,  
*Clerk Circuit Court U. S., District of Maryland.*

This bond is approved.

HUGH L. BOND, *C't Judge.*

22 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina,* } ss:

*Equity Subpoena.*

Circuit Court at Raleigh, Fourth Circuit.

The United States of America to the Board of Agriculture of North Carolina and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, R. W. Wharton, and John Robinson, commissioner of agriculture, Greeting:

We command you and every of you that you appear before the judges of our circuit court of the United States of America for the eastern district of North Carolina, at the office of the clerk of said court, in the city of Raleigh, in said district, on the first Monday in the month of June next, to answer the bill of complaint of the Patapsco Guano Company in behalf, etc., a citizen and resident of the State of Maryland, filed in the clerk's office of said court, in said city of Raleigh, then and there to receive and abide by such judgment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the marshal of the eastern district of North Carolina to execute.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at Raleigh, in said district, the 14th day of April, 1892, and in the 116th year of the Independence of the United States.

[SEAL.]

N. J. RIDDICK, *Clerk.*

Issued the 14th day of April, 1892.

23 *Memorandum.*

The within-named defendants are notified that unless they enter their appearance in the clerk's office of said circuit court, at Raleigh

aforesaid, on or before the day to which the within writ is returnable, the complaint will be taken against them as confessed and a decree entered accordingly.

N. J. RIDDICK, *Clerk*.

*Marshall's Fees and Expenses.*

For service on 11 defendants, each at \$2.00, subp. ....	\$22 00
Complaint, order, &c. ....	22 00
For travel .....	24 36
	<hr/>
	\$68 36

Paid by J. W. Hinsdale, att'y, &c., June 4th, 1892.

Returned and filed May 25th, 1892.

N. J. RIDDICK, *Clerk*.

24

*Marshall's Return.*

THE PATAPSCO GUANO CO.	} No. 163, E.
vs.	
THE BOARD OF AGRICULTURE OF N. C.	

Bill of complaint, restraining order, and equity subp., U. S. circuit ct., Raleigh, N. C.

Received April 14th, 1892; executed same day by delivering to and leaving with John Robinson, commissioner of agriculture, true copies each of the bill of complaint, injunction, restraining order, and equity subpoena in this cause.

Also on April 20th, 1892, executed in same manner and form on W. F. Green, pres. board of agriculture, and on the following-named persons, as members of the board of agriculture, executed by delivering to and leaving with each a true copy of equity subpoena and the restraining order of court, viz:

W. F. Green, April 20th, 1892.

J. B. Coffield, April 19th, 1892.

W. R. Williams, April 20th, 1892.

R. W. Wharton, April 21st, 1892.

W. R. Capehart, April 22d, 1892.

J. F. Payne, May 7th, 1892.

A. Leazar, May 20th, 1892.

S. L. Patterson, May 20th, 1892.

W. E. Stevens, May 20th, 1892.

The other defendants in this case not to be found in this district.

J. B. HILL,  
U. S. Marshall.

25 In the Circuit Court of the United States, 4th Circuit, Eastern District of North Carolina, at Raleigh. In Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of Itself and All Other Non-resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in and Make Themselves Parties and Contribute to the Expenses of this Action,

vs.

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, R. W. Wharton, J. F. Payne, A. Leazer, S. L. Patterson, C. D. Smith, and John Robinson, Commissioner of Agriculture.

} Answer.

Joint and several answer of all the defendants above named to the bill of complaint of The Patapsco Guano Company, complainant.

The defendants above named, reserving to themselves the right of exception to the said bill on account of its many defects and omissions, and especially for that the same doth not set forth facts sufficient to constitute a cause of action, for answer thereto or to so much thereof as the defendants are advised it is material and necessary to answer, say:

I. That they admit that the plaintiff is a corporation and is a citizen and resident of the State of Maryland.

26 II. That it is admitted that the complainant corporation has a capital reasonably sufficient to enable it to perform its business as a manufacturer of fertilizer-, but the defendant- has no knowledge or information sufficient to form a belief as to the capital invested by complainant in its said business, and if the averment is relied upon as essential by plaintiff defendant- asks that complainant be required to make strict proof thereof, and defendants deny that many millions of capital are invested and thousands of laborers and agents are employed in the manufacture of fertilizer- for sale in North Carolina.

III. That they admit that the complainant has been engaged in selling fertilizers in North Carolina, but the defendants have no knowledge or information sufficient to form a belief as to the exact extent thereof or the enormous profit claimed by complainant in the said business, and therefore asks that the complainant be required to make strict proof thereof. Defendants say that unless the complainant has heretofore been selling fertilizers in North Carolina without complying with the law his purchase- of the tags which show the tonnage tax demonstrate that the statement of its annual business is grossly exaggerated.

IV. Defendants admit that the season for the sale of fertilizers is, as alleged, in the spring, and say that it is now almost entirely past, and defendants admit that it is probable that the complainant has manufactured and desires to continue to manufacture a considerable quantity of fertilizers.

V. Defendants admit that complainant has shipped fertilizers into the State and desires to ship more.

VI. That defendants admit that the board of agriculture, through its regularly constituted officers, intends to obey the law of  
27 its creation, and that while its officers have not threatened complainant, yet if complainant does not intend to follow the provisions of the law which the defendants are in duty bound to uphold they will take such course as is required under the laws of the State to perform their duty.

VII. That the defendants admit that the laws of North Carolina are substantially set forth in paragraph 7, but that for greater certainty they refer to the code of North Carolina and the acts amendatory thereof.

VIII. Defendants admit that taxes to the amount of \$32,894 were collected in 1891 under the laws then in force, but they deny that the amount is a fixed sum, and aver that this amount was unusually large and cannot be collected again; that during the year 1892 the receipts have greatly fallen off, and the defendants cannot reasonably expect (upon a careful estimate and after nearly all collections are over) to collect more than \$24,000 in all, and that this sum will not be more than is necessary to carry on the operations of the department of agriculture in its inspection of fertilizers, in the proper analyzation of the same, and in publishing the results of such analyses and in protecting the farmers and citizens of the State against imposition and loss on account of spurious fertilizers. They deny the other allegations of paragraph 8, except as hereinafter admitted.

IX. That the defendants deny that the board of agriculture "pretend" anything in relation to this tax. They aver that the tax varies in amount from year to year, and that it is impossible to estimate in advance the exact amount of revenue to accrue from it; that in order to be certain to raise enough revenue to have the various brands of fertilizers used in the State (which have increased in numbers fivefold since the license tax was established) properly  
28 analyzed and the inhabitants of the State protected against fraud and against spurious and worthless articles intended to be palmed off on the farmers of the State as genuine fertilizers, it is essential to maintain a department or bureau, to have a sufficient executive and clerical force properly to conduct the business of the department, to have a staff of chemists to perform the work of analyzation at the time when it is needed, and to keep a number of inspectors in the field at considerable expense, to draw samples of the three hundred and fifty brands now used in the State, the number of such brands having increased and continuing to increase each year under the operation of the act of 1891. Defendants deny utterly that not more than one-fifth of the tax collected is necessary for the said purposes, but, on the contrary, aver that all of said tax is reasonably necessary for those purposes; they deny that any unnecessary employees are maintained, and they deny that any part of the funds received from fertilizers are applied

directly or indirectly to the support of the Agricultural and Mechanical college.

X. Defendants, respectfully protesting against the good faith of an allegation of the terms of an act as if in existence long after nearly all of the items stated therein have been expressly repealed, which repeal was known or by ordinary diligence could have been known to complainant, say that it is not true that defendants intend to pay or by law can pay the items mentioned in paragraph X. They do not devote the tax realized from fertilizers to an experiment station or farm, nor to keep up a geological museum, nor to print the productions of a State geologist, nor to publish a hand book, nor to employ emigration agents, nor to the N. C. Industrial Association, nor to the expenses of a State geologist, but the receipts of the tax on fertilizers are applied as follows:

29 Properly to inspect, analyze, and control fertilizers it is absolutely essential that the work be done promptly as well as accurately. It is essential that a sufficient force be kept in all portions of the department throughout the year to manage executive details as they arise, to receive money, and to fill orders for a million or more of tags each year. It is necessary to keep a force of inspectors travelling over the State for the purpose of drawing samples of such fertilizers as shall be brought to or made in the State, and to prevent the introduction and sale of spurious goods. To analyze the samples it is requisite that a force of chemists be constantly maintained. In order that the analyses shall be made known to purchasers it is a necessity that they should be promptly printed and distributed throughout the State. The number of brands is, as has been heretofore stated, constantly increasing, now amounting to three hundred and fifty, and defendants say that the entire amount received from the tax upon fertilizers, as near as the revenue can be calculated and depended upon as a certain quantity, will be required for the legitimate purposes of the department as above set forth. Defendants will, when thereto required, exhibit a full statement of their expenditures and receipts.

XI. That of the items mentioned in paragraph XI the item of seven thousand dollars was paid exclusively for analyses of fertilizers, the payment being made to the experiment station because of the fact that the experiment station and the agricultural department used the same laboratory and to some extent the same chemists, and in this way the work was done economically; the \$2,065 paid to the A. & M. college was the repayment of a loan theretofore made to the department by the college. The amount paid for printing bulletins of the result of the work of the department was an important and necessary part of its work. The amount

30 paid to the World's fair was a loan made under the following circumstances: The receipts during the year 1891 were larger than usual and the department made a loan to the World's fair which, in case of a deficiency in its revenue, it will seek to have repaid. Since the reduction of revenue and the increase of the number of brands no such surplus is ever expected to occur again.

XII. That the defendants are advised that the laws imposing a



tonnage tax are not a regulation of commerce between the States and are not unconstitutional; that the tax is imposed for the purpose of paying the expense of an inspection and to protect the people of North Carolina.

XIIa. That the defendants are advised that the law is not an impost or duty either in letter or in spirit.

XIII. That the defendants deny the allegations of paragraph XIII, and, with all deference, suggest that the methods adopted by the General Assembly to protect the State against unscrupulous manufacturers of fertilizers are matters for the legislation of a sovereign State, and for a single manufacturer of fertilizers to give his views of the necessity of a law or a criticism of its provisions is gratuitous.

XIV, XV, XVI, XVII, & XVIII. That the defendants deny the allegations of damages alleged in paragraphs XIV, XV, XVI, XVII, XVIII and say that the same are merely chimerical creations of plaintiff's imagination, and that the damages which exist in plaintiff's imagination will not exceed the amount of the tax imposed upon the fertilizers sold by it. Defendants deny that the damages alleged can exceed two thousand dollars.

XVa & XVb. That defendants have no knowledge or information sufficient to form a belief as to the allegations of paragraphs XVa and XVb except that the railroad company has been requested by the department to obey the law.

XIX. That defendants admit that complainant is ready to comply with any law which does not provide for an inspection or analysis of fertilizers or the payment of any tax by the complainant to have the fertilizers made by it duly analyzed; and, further complaining, defendants say:

XX. That the defendant R. W. Wharton is not a member of the board of agriculture and is not a proper party to this action; that the defendant W. F. Green and the other persons named in the bill (except John Robinson, who is commissioner of agriculture) are members of the board of agriculture, which is a department and a part of the government of the State of North Carolina; that all the actings and doings of such defendants are the actings and doings of the board of agriculture and not the actings and doings of the defendants individually, and that they are not proper parties to this suit.

XXI. That the defendant The Board of Agriculture is a department of the government of the State of North Carolina and is protected by the rights and sovereignty of the State, and the defendants are advised that the circuit court of the United States has no jurisdiction to maintain an action against a department of the government of the State.

Wherefore defendants pray to be dismissed with costs, etc.

BATTLE & MORDECAI,  
BUSBEE & BUSBEE,

*Sol's for Defendant.*



UNITED STATES OF AMERICA, )  
 Eastern District of North Carolina. )

W. F. Green, chairman of the board of agriculture of North Carolina, and John Robinson, commissioner of agriculture, defendants, being duly sworn, say, each for himself, that the facts stated in the foregoing answer to be of their own knowledge true, and those otherwise stated they believe to be true.

W. F. GREEN.

JNO. ROBINSON.

Sworn to and subscribed before me this June 4th, 1892.

N. J. RIDDICK, *Clerk*.

As to Wm. F. Green and by John Robinson, June 6th, 1892.

N. J. RIDDICK, *Clerk*.

32 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of )  
 Itself and All Others, &c., )

*against*

THE BOARD OF AGRICULTURE OF NORTH CARO- )  
 LINA *et al.* )

Replication of the  
 Plaintiffs.

*This* repliant-, saving and reserving unto *itself* all and all manner of advantage of exception to the manifold unsufficiencies of the defendants' answer, for replication thereunto says that *it* will aver and prove *its* said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of said defendants is uncertain and insufficient to be replied unto by *this* repliant-; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all of which matters and things *this* repliant- *is* and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by *its* said bill *it* had already prayed.

T. N. HILL,

J. W. HINSDALE,

*Solicitors for Plaintiffs.*

Replication filed June 11th, 1892.

N. J. RIDDICK, *Clerk*,

By V. ROYSTER, *Dep. Cl'k*.

33 U. S. Circuit Court, Eastern District N. C., June Term, 1892.

Decided Sept., 1892.

THE PATAPSCO GUANO CO.

vs.

THE BOARD OF AGRICULTURE OF NORTH CAROLINA.

} Opinion.

SEYMOUR, J.:

This court, in the case of *Am. Fertilizer Co. v. Board of Agriculture*, reported in 43 Fed. Reporter, 609, decides so much of section 2190 of the Code of North Carolina as imposed a privilege tax of five hundred dollars per annum on every manufacturer or other person importing any commercial fertilizer into the State for each separate brand or quality to be unconstitutional. The ensuing legislature repealed this section and modified the entire legislation upon the subject of commercial fertilizers. This legislation is to be found in chapters 9 and 348 of the Public Laws of 1891. Chapter 9, quoted in part, reads as follows:

"SEC. 1. That section 2190 of the Code shall be substituted by the following: 'For the purpose of defraying the expenses connected with the inspection of fertilizers and fertilizing materials in this State there shall be a charge of twenty-five cents per ton on such fertilizers and fertilizing material for each fiscal year, which shall be paid before delivery to agents, dealers, or consumers in this State. \* \* \* Each barrel, bag, or other package \* \* \* shall have attached thereto a tag stating that all charges specified in this section have been paid. \* \* \* Any person, corporation, or company who shall sell or offer for sale any such fertilizers contrary to the provisions above set forth shall be guilty of a misdemeanor.'" \* \* \*

34 SEC. 2. Section 2191 of the Code shall be substituted by the following: "Every bag, barrel, or other package of such fertilizers \* \* \* offered for sale in this State shall have thereon plainly printed a label or stamp, a copy of which shall be filed with the commissioner of agriculture, together with a true and faithful sample of the fertilizers \* \* \* which it is proposed to sell, at or before the delivery to agents, dealers, or consumers in this State; \* \* \* also the chemical composition of the contents of each package, \* \* \* together with the date of its analyzation, and that the requirements of the law have been complied with." \* \* \*

SEC. 4. Section 2193 of the Code shall be substituted by the following: "Any merchant, etc., who shall sell or offer for sale any commercial fertilizers without such label \* \* \* shall be liable to a fine of ten dollars. \* \* \* Any agent of any railroad \* \* \* who shall deliver any fertilizers in violation of this section shall be guilty of a misdemeanor."

Section 348 of the Public Laws of 1891 amends the previous legislation of the State in regard to the establishment and maintenance of an industrial school.

By the act of 1885, chapter 308, sec. 4, it was enacted that the board of agriculture should apply to the establishment and main-

tenance of an industrial school such part of their funds as was not required to conduct the regular work of the department, not to exceed \$5,000 annually.

Chapter 410 of the Public Laws of 1887, section 6, provided that the board of agriculture should turn over to such industrial school annually the whole residue of their funds from licenses on fertilizers remaining over and not required to conduct the regular work of the department.

By chapter 348 of the Public Laws of 1891 the provision of section 6 of chapter 410 of the Public Laws of 1887, above cited, is stricken out and the following provision is substituted in lieu thereof:

"The said board of trustees"—referring to the trustees of the N. C. College of Agriculture and Mechanic Arts, which takes the place of the industrial school created by the act of 1885—"shall have power to accept, on behalf of the State, donations of property, real or personal, and any appropriations made by Congress \* \* \* for the benefit of agricultural experiment stations or agricultural & mechanical colleges."

Section 5 of this act appropriates \$10,000 annually for the years 1891 and 1892 to such college of agriculture and mechanic arts.

The act of 1891 leaves in force section 2196 of the Code, which provides that the chemist of the agricultural department shall be paid out of the funds of the department of agriculture; section 2198 of the Code, which imposes certain duties upon the State geologist and authorizes the State board of agriculture to pay for the expenses of the same, and section 2206 of the Code, which appropriates \$500 annually of the money received from the tax on fertilizers to the N. C. Industrial Association, to be expended under the direction of the board of agriculture.

By section 2208 of the Code it is provided that all moneys arising from the tax on licenses and from various other sources specified shall be paid into the State treasury and shall be kept in a separate account by the treasurer as a fund for the department of agriculture. The ordinary repealing clauses are annexed to the two acts hereinabove cited from the laws of 1891.

Although, as has been said, chapter 348 of the Laws of 1891 does not repeal section 2206 of the Code—the section appropriating \$500 annually of the moneys received from the tax on fertilizers—yet a later act refers to the subject of an appropriation to said association. This is chapter 426 of the Laws of 1891, which provides that an appropriation of \$500 be made to the treasurer of said association, to be paid by the State treasurer. This act refers — no particular fund as the source from which such payment shall be derived.

The constitutional objection to this legislation is that it is, it is claimed, a regulation of commerce. The answer of the State's counsel in sustaining the tax is that it is an inspection law. The reply made to this answer by counsel for plaintiff is, first, that it appears from the whole scope of the legislation that the imposition in question is not intended in good faith to be a compensation to

the State for the cost of inspecting commercial fertilizers; that this appears from the alleged fact that the amount is in excess of what would be necessary to pay such cost, and the court is asked, if it be in doubt as to whether this be true, to direct an investigation of the question of what would be the necessary cost of the inspection of commercial fertilizers under the act of 1891, and whether the imposition of a charge of twenty-five cents per ton be not in excess of what is absolutely necessary to the enforcement of the law.

Counsel further contend that the law cannot be an inspection law, because it is directed to the subject of articles not the products of the State enacting the regulation; and, further, if not technically an inspection law, that it cannot be upheld on the analagous ground of being a police regulation in the nature of an inspection law, because the police power of the State is confined to the protection of public health, the public morals, or the public safety.

37 I will consider these contentions in the order above given:

I. I concur with counsel for plaintiff that if the imposition of twenty-five cents on each ton of commercial fertilizer be not either an inspection impost or cannot be supported on some analagous ground it must fail as being a tax on interstate commerce. The general taxing power of a State extends only to property within its geographical limits or owned as the personalty of its residents. A reading of the law now under discussion may leave it questionable whether, as far as it affects or intends to affect fertilizers manufactured outside of North Carolina by citizens and residents of other States, the imposition considered as a tax is not payable before the property taxed comes within the jurisdiction of the State. Under any construction of the statute it is chargeable upon the merchandise before it becomes mingled with the general mass of personalty in the State. Possibly, in the view taken of the subject in the New Orleans coal case, *Brown v. Houston*, 114 U. S., 622, this might not be fatal were the imposition a part of a law taxing at equal rates all taxable, but it is too clear, it would seem, to require any citation of authority that, considered as a specific burden upon a particular article imported from another State, the fertilizers cannot be subjects of State taxation until they are mingled with the general mass of the goods within the State's limits. By section 1 of the first cited act of 1891 it is provided that the tax shall be paid before delivery to agents, dealers, or consumers in the State; and in various parts of the act it is made penal for any one, including a common carrier, to deliver any fertilizer not bearing upon it, in the shape of a tag, evidence that the tax is paid.

38 II. The opinion of the court being that the imposition cannot be sustained as a tax on merchandise, I pass to the question of whether it can be supported as an inspection law or on any other ground as a law regulating the internal commerce of the State.

"Inspection laws are not, strictly speaking," says Chancellor Kent, "regulations of commerce. Their object is to improve the quality of articles produced by the labor of the country and to fit them for exportation or domestic use. These laws act upon the sub-

ject before it becomes an article of commerce. Inspection laws, quarantine laws, and health laws, as well as laws regulating the internal commerce of a State, are component parts of the immense mass of residuary State legislation over which Congress has no direct power, though it may be controlled when it directly interferes with their acknowledged powers." 1 Kent's Commentaries, \*439.

The act imposing a tax of five hundred dollars per annum for each separate brand of fertilizer (the Code, sec. 2190) is imposed as a privilege tax. Amended section 2190, Laws of 1891, ch. 9, in terms imposes not a tax, but "a charge" of 25 cents per ton on fertilizers "for the purpose of defraying the expenses connected with the inspection of fertilizers." It is thus expressly imposed as an inspection tax. The strong presumption is that the declared purpose of the draughter of the statute is its real purpose, and no court will lightly assume the contrary. In fact, a doubt is expressed by high authority of the power of the United States courts to pass upon the subject of whether the imposition is too large for the necessary expenses of inspection. In *Neilson v. Garza*, 2 Woods, 287, Mr. Justice Bradley says that it may be doubtful whether it is not exclusively the province of Congress and not at all that of a court to decide whether a charge or duty under an inspection law is or is not excessive. Mr. Justice Blatchford, in citing *Neilson v. Garza*,

39 adds that there was nothing in the record from which it could be inferred that the State of Maryland intended to make its tobacco-inspection laws a mere cover for laying revenue on exports. *Turner v. Maryland*, 107 U. S.

A distinction is readily to be deduced from authority on the subject of inspection and kindred laws between the question of whether the courts of the United States will pass upon the alleged excessive charge imposed by law, and that of the consideration of whether a State legislature, or perhaps it were better or more correct to say the framer of a State statute, has intended under the guise of a pretended charge for the expense of inspection to impose a tax on imports or exports or commerce between the States or any subjects not properly liable to State taxation. I think that in cases of this character the court is not required to go into an examination of the question of whether the imposition is excessive unless for the purpose of deciding whether the tax is only colorable an inspection charge or a charge of a kindred nature.

The case in the Supreme Court of *Onachita Packet Co. v. Aiken*, 121 U. S., 444, illustrates the subject. The syllabus is, "A municipal tax which authorizes the collection of a wharfage rate to be measured by tonnage estimated to be sufficient to light the wharves, keep them in repairs, and construct new wharves as required, and which may realize a profit over expenses, does not violate the Constitution as being a duty or burden upon commerce." The Supreme Court, expressing its opinion by Bradley, J., says: "We see nothing in the purposes for which the lessees were required to expend or pay money at all foreign to the general object of keeping up and maintaining proper wharves and providing for the security of those that use them." "In all such cases of local concern, though incidentally

affecting commerce, we have held that the courts of the U. S. cannot as such interfere with the regulations made by the State nor set in judgment on the charges imposed for the services rendered under State authority. It is for Congress alone, under its power to  
 40 regulate commerce with foreign nations and among the several States, to correct any abuses that may arise or to assume to itself the regulation of the subject. If in any case of this character the courts of the United States can interfere in advance of congressional legislation it is where there is a manifest purpose by roundabout means to invade the domain of Federal authority." *Turner v. Maryland*, *supra*, is a case of the former class. *Brimmer v. Rebman*, 138 U. S., 78, and *Minnesota v. Barber*, 136 U. S., 313, are cases where the United States courts interfered with the State statute on the ground of manifest purpose to invade the domain of Federal authority.

It remains to be considered whether the tonnage tax of 25 cents on commercial fertilizers manifests an evident intent, under the guise of an inspection law, to impose taxation on interstate commerce.

The fact, were it true, that the amount of the tax might upon investigation turn out to exceed the sum required to reimburse the State for the cost of inspection would not, in the view the court takes of the principles of law involved, be at all decisive. The question would perhaps be somewhat analagous to the inadequacy in the consideration in a contract of sale, which might be evidence of fraud, but not conclusive of it unless sufficiently great to at once "shock the conscience."

The verified answer of the board states that the amount collected in 1891 under the existing law was \$32,894.00; that \$24,000 is all that has been or can be collected during the year 1892. It further states that the number of brands to be analyzed is three hundred and fifty. If such be the case the amount of the tax under the  
 41 old law as it existed before 1891 on fertilizer, at the rate of \$500 per brand, would have been \$175,000.00. Doubtless the reduction in the amount of the tax has been the cause of the introduction into the State of some brands of fertilizer which would not have paid the tax of 1890.

Of course it would have been impossible, in advance of actual results, to have determined the precise imposition which would have covered the cost of inspection. The case has been heard upon bill and answer and certain proofs.

The tax of 25c. per ton on fertilizers resulted in 1891 in producing about \$33,000. The estimate, which seems a reasonable one to me, for 1892 is that it will pay \$24,000. It is in the account produced, mingled with other receipts of the department of agriculture. There is no provision in the N. C. statute for keeping separate accounts of the cost of the work done under the fertilizer law and under other branches of the duties of the department of agriculture. The entire expenses (actual, \$14,022.47) (estimated, about \$3,300) of the department of agriculture for the six months



(Dec. 1st, 1891, to May 31st, 1892) are \$17,352.97. These charges include—

Board and committee meetings.....	\$1,452 60
Inspectors' expenses.....	2,398 18
Gas and water.....	1 75
Paper, printing, bulletins, & other office work.....	1,435 53
Salaries and wages.....	2,175 00
Att'ys' fees.....	534 00
Subscriptions to periodicals.....	39 00
Analytical. ....	5,000 00
Postage, express, freight, &c. (estimated).....	985 00
Gas, water....	40 00
Paper, printing, &c.....	90 00
Att'ys' fees.....	200 00
Analytical.....	3,000 00
Total.....	\$17,352 00

Some of these charges cannot properly be, as a whole, charged to the inspection of fertilizers. How many of them can it is impossible to say. I should suppose that on the whole the tax on the fertilizer will produce enough to pay the inspection charges, with a considerable margin. It is upon such a supposition that I pronounce my opinion. If I were to hold that the charge upon fertilizers would be unconstitutional if it could be shown to produce more than enough to pay inspection charges, I would be compelled either to decide against the State at this stage of the case or to direct an enquiry with a view to ascertaining the exact amount produced by the tax and the exact amount of the costs of the department properly chargeable to inspection. Upon the coming in of the report some such questions as these would arise: Does the charge of \$8,000 for analysis in whole or in part belong to inspection? It is averred by the answer that it does. What part of the general expense of the board of agriculture ought the board to charge for inspection? In fact, the court would be compelled to supervise the entire subject of the expenditures of the board. This would be, for many reasons, inconvenient, and, as I think, could produce no good result.

The amount of the inspection tax appears a reasonable one, not excessive of itself, so as to make it probable that it would check importation. Putting the case, as I do, upon the position that the imposition could not be decided unconstitutional by the circuit court simply upon the ground of alleged excess, if the excess does not show a purpose to evade an inhibition of the constitution, I have come to the conclusion that I cannot say that such intention appears in the amount of the tax.

I will proceed to give the facts of a case which sustains fully the principal on which this decision is based. It is the leading one in the reports of the United States on the subject of inspection laws—that of *Turner v. Maryland*, 107 U. S., 38, which involved the constitutionality of the Maryland inspection laws. The act of the

legislature of Maryland of 1864 provided for the appointment of five tobacco inspectors and a number of clerks, whose salaries were to be paid from the receipts of their respective offices. These inspectors were to cause each hogshead of tobacco to be numbered and to enter the number, time of receipt, etc., the name of the owner or consignee, etc., to be entered in a book to be kept by each of them. It was further provided that the tobacco in each hogshead should be inspected; that each hogshead, with the tobacco it contained, should be separately weighed, and that each hogshead should be branded with the weight of the tobacco and of the hogshead. Provision was made for taking samples from each hogshead, for sealing and delivering to owners certificates of inspection of all merchantable tobacco and for repacking and reweighing unmerchantable tobacco. It was made unlawful to take out of the State any uninspected tobacco in hogsheads. An amendatory act was passed in 1870 which allowed any grower or purchaser of tobacco to pack the same in counties where grown without having it open for inspection. However, by the amendatory act it was provided that such tobacco, whether or not opened for inspection, could only be

43      packed in casks of a specified size and should be liable to the full charge for outage and storage. By an act of 1872 such charge was fixed at \$2.00 for a hogshead of 1,100 pounds. No inspection of the quality of the tobacco was required, but it was the duty of the grower or packer to have his tobacco delivered, packed by him, at some one of the State's tobacco warehouses, that the inspectors might ascertain whether it was packed in hogsheads of the proper dimensions and whether it had been packed in the neighborhood and where it was grown and marked as required by statute, and for this service and no other the owner of such tobacco was required to pay a charge of two dollars for every hogshead. No further duty was required of a tobacco inspector than to keep a record of the facts of each case and to weigh the tobacco and brand the weight on each hogshead. A question passed upon by the Supreme Court in this case was the validity of the law as an inspection law, in view of the fact that the plaintiff contended that the amount of the charge for such inspection was excessive.

The decision of the court was in favor of the constitutionality of the law. What I have already said disposes of the contention of plaintiff that contingently there ought to be a further enquiry in this case.

But it is contended by the plaintiff that the law under consideration in this case shows upon its face by various provisions made for the expenditure of the money collected under the law that the intention of the legislature was to collect a sum more than sufficient to pay the expenses of inspection. An ingenious argument was made by Mr. Hill, the purpose of which was to show that certain provisions of law which had the effect of repealing appropriations made from the funds derived from the original fertilizer tax had the effect of reviving certain previous appropriations of money derived from the proceeds of such fertilizer tax. I

44      am not disposed to deny the truth of the general proposition



that the repeal of a repealing law does in the absence of any special circumstances revive the law repealed. This proposition is laid down in Dwarris on Statutes, page 676. In *Ramseur, executor, v. Thompson*, 65 N. C., 628, Pearson, chief justice, says: "The act of 1870-71 repeals the code of civil procedure in regard to costs and makes no provision for costs in the matter now under consideration, so the effect is to restore the revised code in that particular." But the question is one of the intention of the legislature. In the case before the court the legislature of North Carolina had by the law of 1885 made an appropriation to the industrial school of \$5,000 annually. By an act of assembly passed in 1887, which must be construed to be substituted for the act of 1885 and therefore to be a repealing law, the legislature of North Carolina appropriated to such school all the surplus arising from the proceeds of the tax on fertilizers. In 1891 an act of the legislature was passed the effect of which, it is conceded, was to repeal the appropriation made to the State industrial school by the act of 1887. It is contended by Mr. Hill, for the plaintiff, that the repeal in 1891 of the act of 1887 revived the act of 1885, and that it results from the revival that \$5,000 of the fund arising from the present tax on fertilizers is now appropriated to the state industrial School. The same argument is used to show that by existing legislation \$500 of the proceeds of the tonnage tax on fertilizers is annually appropriated to the N. C. Industrial Association, which is, as the court is informed, a negro agricultural fair. The argument drawn from this contention is that the State today appropriates at least \$5,500 annually of the money derived from the tonnage tax to purposes other than the cost of inspection of fertilizers, and that this fact proves that

45 the amount of the tonnage tax was intentionally made larger than was necessary. The court is of the opinion that such was not the intention of the legislature. This court at its June term, 1890, decided that the then existing tax upon commercial fertilizers was unconstitutional and had given as a reason for one of its positions, to wit, that the then existing tax on fertilizers could not be supported on the ground of its being an inspection tax, the fact that a large portion of the proceeds of such tax was appropriated for other than inspection purposes. At the ensuing session of the legislature of N. C., in January, 1891, an act was passed which has been hereinbefore recited and which in express terms repeals all laws conflicting with itself. By the first section of this act, which imposes a tax of 25 cents per ton on all commercial fertilizers, the legislature declares the purpose of the tax to be for inspection only. The previous law had imposed a tax of \$500 per brand upon every brand and description of fertilizer and declared the same to be a privilege tax. The tonnage tax of 25c. per ton is declared by the first section of the act of 1891 to be substituted for the \$500 privilege tax. This court will not infer, simply for the purpose of enforcing an ancient rule of law having for its basis only the presumed intention of legislatures, that the purpose declared in the act of 1891 is falsely declared and by an implication which contradicts the declared will of the legislature that the re-

peal of the sections of the code which have been declared unconstitutional should have only the effect of reviving earlier laws equally objectionable with those that were attempted to be repealed. The court is of the opinion that under existing legislation there is no appropriation of the proceeds of the tonnage tax directly to the support of the industrial school, now called the State A. & M. college

46 or the N. C. Industrial Association. If it should be otherwise, however, it was not intended, and therefore does not affect the case. Certain appropriations are made in unrepealed sections of the Code of North Carolina from the funds of the State board of agriculture for various purposes, such as that under section 2196, for the salary of an analyst; under section 2198, to a geological museum, and under some other sections to various other purposes; but these appropriations are to be paid out of the general funds of the State board of agriculture, which are derived from other sources, as well as from the tonnage tax on fertilizers, and are not directly appropriated out of the tonnage tax. In lieu of the appropriation of the surplus funds derived from the tax on fertilizers, given by the act of 1837 to the State agricultural college, an annual sum of \$10,000 is directed to be paid out of the treasury of the State to such college, and in lieu of the \$500 directed to be paid out of the fertilizer tax to the N. C. Industrial Association an annual appropriation of \$500 from the public treasury is made to the same.

Chapter 338 of the Laws of 1891 makes a provision for the oyster industries of the State from other sources than the fertilizer tax; chapter 417 of the Laws of 1891 makes an appropriation of \$10,000 direct from the treasury to the State geological survey; so that it is evident that the legislature of 1891 repealed all laws making any substantial diversion of the money to be derived from the tonnage tax on fertilizers to any other purpose than to such as are directly or indirectly connected with the expense of inspection, leaving the real question for the court only whether the tax of 25c. per ton appears in itself so excessive as to indicate a purpose other than that declared on the face of the law. Upon this question the court

47 has already declared its opinion.

III. But one question remains to be discussed. In the collection of inspection laws given in the note to the case of *Turner v. Maryland* no statute is mentioned which under the guise of an inspection law imposes an inspection tax upon things not grown in or produced in the State exacting the inspection law, and there is as yet no decision of the supreme court approving of the validity of any law imposing a charge for the inspection of articles grown or produced outside of the State. In the very recent case of *Voight v. Wright*, 141 U. S., 62, Bradley, judge, in rendering the opinion of the court, says: "The question is still open as to the mode and extent in which State inspection laws can constitutionally be applied to personal property imported from abroad or from another State." This question was not decided in *Voight v. Wright*, which was a case arising under the Virginia act of 1867, providing for the inspection of flour brought into the State and offered for sale therein,

and which went off on the ground that the Virginia law in question discriminated in favor of Virginia-made flour and against flour manufactured in other States. The point must necessarily be discussed in the decision of this case.

I do not think it necessary to expressly state that this law is technically an inspection law, though I see no reason why it should not be so called. Whatever called, it seems to me to be a law that the State of North Carolina has the power to enact under the general powers reserved from the grant of other powers to the United States. It is not worth while to discuss the question of whether it is one of the police powers of the State. It is a law to provide for the security of purchasers in buying an article whose contents and qualities cannot be determined by an ordinary inspection, but only by analysis and the use of the knowledge of experts. It would seem that there can be no reason why in the absence of any constitutional objection a State should not have power in the regulation of its internal commerce to say that articles of this description shall not be sold within its limits without inspection. It is a law enacted to protect the citizens of the State from fraud. Neither do I know of any reason why the State should not be permitted to charge the cost of such inspection upon those offering such articles for sale.

The judgment of the court is that the injunction heretofore granted be dissolved, the bill dismissed, and that the defendant have judgment for costs against the plaintiff and its surety on the prosecution bond.

49 In the Circuit Court of the United States at Raleigh, Fourth Circuit. In Equity. November Term, 1892.

THE PATAPSCO GUANO CO. <i>et al.</i>	} No. 163. Order Dissolving Injunction.
<i>v.</i>	
THE BOARD OF AGRICULTURE OF NORTH CAROLINA <i>et al.</i>	

This cause coming on for argument upon the plaintiff's motion to continue the temporary restraining order heretofore granted herein until the hearing, and said motion being heard upon bill, answer, affidavits, and exhibits, and being argued by counsel on both sides—

The court, for the reasons set forth in the opinion filed herein, doth deny the plaintiff's motion and doth order that the injunction heretofore granted in this cause stand dissolved and vacated at the costs of the plaintiff.

A. S. SEYMOUR, *Dist. Judge.*

F. H. BUSBEE AND  
BATTLE & MORDECAI,  
*Sol's for Def'ts.*

*Depositions for Plaintiff.*

UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

Circuit Court, Fourth Circuit, at Raleigh.

The President of the United States of America to Weldon T. Smith,  
 Greeting:

We, reposing especial trust and confidence in your integrity, do authorize and empower you to cause S. McD. Tate, H. E. Cowan, E. B. Bain, E. B. Barbee, C. G. Latta, John Robinson, H. B. Battle, P. C. Ennis, T. C. Harris, W. F. Massey, Alex. Q. Holliday, R. L. Burkhead, J. J. Thomas, — Brewer, and others to appear before you at such time and place as you may appoint, and them on oath to examine touching all such matters and things as they shall know of and concerning a certain matter of controversy pending in our circuit court of the United States for the eastern district of North Carolina, wherein The Patapsco Guano Company *et als.* are plaintiffs and The Board of Agriculture of North Carolina and others are defendants, and their depositions in writing, by you so taken, the same to transmit, sealed with your seal, to the judges of our said circuit court of the United States, to be held for the eastern district of North Carolina, at Raleigh, on the first Monday in June next, to be read in evidence in behalf of the complainants in said controversy.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at Raleigh, in said district, the 17th day of May, 1893, and in the 117th year of the Independence of the United States.

[SEAL.]

N. J. RIDDICK, *Clerk.*

51 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

To the marshal of the eastern district of North Carolina:

Whereas the subscriber has received a commission from the United States circuit court to him directed for the examination of John Robinson, H. B. Battle, P. C. Ennis, T. C. Harris, W. F. Massey, Alex. Q. Holladay, R. L. Burkhead, J. J. Thomas, and S. W. Brewer as witnesses in a case in said court pending between The Patapsco Guano Co., plaintiff, and The Board of Agriculture, defendant, you are therefore commanded to summon the said John Robinson, H. B. Battle, P. C. Ennis, T. C. Harris, W. F. Massey, Alex. Q. Holliday, R. L. Burkhead, J. J. Thomas, and S. W. Brewer personally to be and appear before me, the said commissioner, at the office of John M. Robinson, commissioner of agriculture, on Friday, the 26th day of May, 1893, at 9.30 o'clock a. m., then and there to testify and the truth to say in behalf of the plaintiff in said controversy.

Herein fail not and have you then and there this writ.

Witness W. T. Smith, commissioner, this 18th day of May, 1893.

W. T. SMITH,  
*Commissioner.*

We accept service of the within notice.

R. L. BURKHEAD.  
P. C. ENNIS.  
J. J. THOMAS.  
S. W. BREWER.  
W. F. MASSEY.  
ALEX. Q. HOLLADAY.  
E. B. BARBEE.  
JNO. ROBINSON.

Executed May 25th, 1893, on Dr. H. B. Battle and T. C. Harris;  
the others named hereon have accepted service.

J. B. HILL, *U. S. M.*

Marshal's fee, \$1.10.

Due.

52 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

To the marshal of the eastern district of North Carolina :

Whereas the subscriber has received a commission from the United States circuit court to him directed for the examination of S. McD. Tate, H. M. Cowan, E. B. Bain, E. B. Barbee, and C. G. Latta as witnesses in a case in said court pending between The Patapsco Guano Company, plaintiff, and The Board of Agriculture, defendant, you are therefore commanded to summon S. McD. Tate, H. M. Cowan, E. B. Bain, E. B. Barbee, and C. G. Latta personally to be and appear before me, the said commissioner, at the office of S. McD. Tate, State treasurer, on Thursday, the 25th day of May, 1893, at 9.30 o'clock a. m., then and there to testify and the truth to say in behalf of the plaintiff in said controversy.

Herein fail not and have you then and there this writ.

Witness W. T. Smith, commissioner, this 18th day of May, 1893.

W. T. SMITH,  
*Commissioner.*

53 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina.

THE PATAPSCO GUANO COMPANY *et als.*

*vs.*

BOARD OF AGRICULTURE OF NORTH CAROLINA *et als.*

Pursuant to the annexed commission to me directed, I, W. T. Smith, commissioner, under the authority hereof, on the 25th day of May and the 26th and 27th days of May, 1893, at the office of the State treasurer of North Carolina on the 25th day of May, and

on the 26th and 27th days of May at the office of John Robinson, commissioner of agriculture of North Carolina, in the city of Raleigh, county of Wake, State of North Carolina, both parties being present by their counsel, to wit, The Patapsco Guano Company, by John W. Hinsdale, att'y, and The Board of Agriculture of N. C. by S. F. Mordecai, proceeded to take the depositions of Henry M. Cowan, R. L. Burkhead, Jno. Robinson, H. B. Battle, T. C. Harris, S. W. Brewer, and E. B. Barbee, who, each being duly sworn to speak the truth, the whole truth, and nothing but the truth between the parties named in the said commission, deposed and say as follows:

54 COWAN, HENRY M., one of the witnesses sworn on behalf of the complainant, deposed as follows:

Direct examination by Col. J. W. HINSDALE:

Q. In the first place, sir, what is your name and occupation?

A. Henry M. Cowan, chief clerk; chief clerk North Carolina treasury department, Raleigh.

Q. What is this book marked "Exhibit A," which I hand to you?

A. This is the biennial report of the treasurer of North Carolina for the two fiscal years ending November 30th, 1892.

(Defendant's counsel objects to the admission of Exhibit A.)

By the JUDGE: Testimony admitted.

Q. Will you please turn to the statement of public fund receipts for the two fiscal years ending November 30th, 1891, and November 30th, 1892, and state the amount of tonnage tax on fertilizers received by the State treasurer for each month of the fiscal year 1890-'91?

A. January, 1891, tonnage tax on fertilizers, \$2,238.75.

Mr. Cowan proceeded as follows:

The tonnage tax on fertilizers was for—

February, 1891.....	\$11,969 09
March.....	6,758 44
April.....	6,185 55
May.....	2,960 78
June.....	160 75
July.....	14 60
August (nothing in Aug. this year).	
September.....	1,251 50
October.....	1,433 50

The above is for the fiscal year 1891.

For the fiscal year 1892:

55 December, 1891.....	\$591 12
January, 1892.....	2,755 25
February.....	6,709 60
March.....	6,392 93
April.....	5,158 23

May.....	1,453 50
June (nothing).	
July.....	3 75
August.....	285 00
September.....	777 50
October.....	1,769 00
November (D. W. Bain, St. tr.).....	70 00
November (S. McD. Tate, St. tr.).....	78 65

Will you please turn to the account upon the treasurer's book and state the aggregate for each of these years as appears upon that book?

A. \$32,972.96 for the fiscal year ending November 30th, 1891; \$26,044.53 for the fiscal year ending November 30th, 1892.

Q. Please state the receipts from tonnage tax for the several months of the current fiscal year as they appear upon the treasurer's books.

(Objected to by complainant.)

Dec., 1892.....	\$1,236 75
January, 1893.....	4,597 50
February.....	8,806 01
March.....	1,805 99
April.....	6,364 75

Q. Please state how the account in the treasurer's book from which you have been reading for the fiscal years 1890-'91 and 1892-'93 is headed.

A. This account for 1891-'2 and 1892-'3 is headed "Tonnage tax on fertilizer."

56 Q. Please turn to the book. How is that account which commences with the entry "January, by State treasurer, \$2,238.75," headed?

A. "Tonnage tax on fertilizer."

Q. In the printed statement, "Exhibit A," are not each of those amounts which you have testified entered upon the account as tonnage tax on fertilizers?

A. They are.

Q. Will you please turn to the stub of the receipt book for the first item of \$2,238.75 and read what appears on that stub, so that it may be taken down?

— The first stub reads as follows: "Date, Jan. 31st, 1892; amount, \$2,238.75; receipt issued to John Robinson, commissioner of agriculture, tonnage charges on fertilizers and fertilizing material paid into his office by sundry persons under act ratified the 21st day of January, 1891, entitled 'An act to amend chapter 1, volume II, of the Code relating to agriculture and geology.'"

Q. I will ask you, sir, if the stubs for the receipts given for each and every other amount which you have testified do not read in the same way?

A. They do. We issued on this receipt book in conformity to the law.



Q. Can you state from your books what amount was paid in by Col. Robinson, commissioner of agriculture, for the month of December, 1890?

57 A. Nothing.

Q. Can you tell from the treasurer's books what sum was paid in for the month of November, 1890?

A. Nothing for November, 1890.

— What for October, 1890?

A. Nothing.

Q. September?

A. Nothing.

Q. Will you please, sir, give the receipts for the several months of the year 1890, going backwards?

(Objected to by defendant for the reason that all of this is license tax.)

By the JUDGE: Admit.

A.—

August.....	Nothing.
July.....	Nothing.
June.....	Nothing.
May.....	Nothing.
April, 1890.....	\$1,500
March, 1890.....	7,500
February.....	10,500
January, 1890....	12,000
December, 1889 .....	500

These for the fiscal year 1889-'90.

Q. Will you please turn to the day book and give me the receipts tonnage tax for the month of May, 1893?

(Objected to by defendant.)

By the JUDGE: Testimony admitted.

A.—

May 1st.....	\$150 25
4th.....	282 25
8th.....	279 25
13th.....	183 75
22nd.....	97 50

Q. What amount of money has been paid into the hands of the State treasurer on account of the agricultural department from the U. S. Gov't for the fiscal year 1890-'91—that is to say, from November 30th, 1890, to November 30th, 1891?

58 A. That does not appear on the State treasurer's books.

Q. Where does that appear?

A. I suppose on the *ex officio* treasurer's books. I do not keep them and I am not familiar with them at all. Mr. Burkhead has that part of the business altogether.



Q. Mr. Cowan, look at this, please (Col. Hinsdale here held towards Mr. Cowan a book), and tell me what book this is.

A. It appears to be from the writing on the back the agricultural department book. It has on the back "treasurer North Carolina agricultural department."

Q. On page 380 what do you find?

A. I see "experiment station, department of agriculture."

Q. Have you any doubt about what this book is? You have seen it before?

A. I never to my recollection wrote a line in that book. Yes, sir; I have seen all of them.

Q. You know what book this is?

A. It is the record book of the agricultural department, I suppose.

Q. Have you any doubt about that?

A. That is what it appears to be, sir. It is the book of the treasurer *ex officio* of the agricultural department. I have no connection with that department. The treasurer *ex officio* and the State treasurer, while they are the same, are entirely different personages. The State treasurer acts in the capacity of *ex officio* treasurer of that institution.

#### By COUNSEL FOR DEFENDANTS:

Q. Are you employed at all by the treasurer of the agricultural department, *ex officio* treasurer?

A. No, sir; I am not connected with that department at all.

#### COUNSEL FOR COMPLAINANT continued:

Q. Please read from this book the entries showing receipts from the United States Treasurer, giving dates and amounts, commencing at page 380.

(Objection by defendants' counsel, who objects to Mr. Cowan's testifying from this book at all.)

A. I see here on this book, sir, an entry on—

January 4th, 1890, to check from United States Treasurer..	\$3,750
April 14th, ditto ..	3,750
June 27th, ditto ..	3,750
August 6th, to check from U. S. Government.....	3,750
October 3rd, to check from U. S. Treasurer.....	3,750
January 2d, 1891, to check from U. S. Government.....	3,750
April 4th, to check from U. S. Government .....	3,750
July 9th, 1891, to cash from U. S. Gov't. ....	3,750
October 9th, ditto .....	3,750
January 7th, 1892, to check from U. S. Treasurer .....	3,750
April 6th, 1892, to check from U. S. Treasurer.....	3,750
August 1st, to check from U. S. Treasurer....	3,750
October 14th, to check from U. S. Treasurer.....	3,750
January 7th, 1893, to check from U. S. Government... ..	3,750

Q. Please state what entry appears on this book as of February 12th, 1890.

A. I know nothing about this particular entry. I can read it out. Reads: "February 12th, to check from D. W. Bain, treasurer *ex officio* North Carolina department of agriculture, \$1,000."

Q. What entry appears on June 28th, 1890?

A. Check from department of agriculture, \$1,000.

Q. What entry appears on March 4th, 1891?

A. To voucher from agricultural department, \$1,000.00.

Q. What entry appears on June 20th, 1891?

A. "To cash from agricultural department, \$7,000.00."

Q. What entry appears on March 1st, 1892?

A. To check, State department of agriculture, \$3,000.

Q. What on April 25th, 1892?

A. "To check, State department of agriculture, \$2,000."

60 Q. What appears on July 2d, 1892?

A. "To check, State department of agriculture, \$3,000."

(All of these entries appear under the head of the account of the experiment station of the department of agriculture.)

Cross-examination by S. F. MORDECAI, Esq., of counsel for defendants:

Q. Has not the experiment station been severed from the agricultural department and connected with the Agricultural & Mechanical college?

A. To the best of my knowledge and belief, it has.

Q. Was not that so prior to the account from which you have been reading?

A. I think it was under the laws of 1887 that the change was made. It was prior to the account that I have just been reading, to the best of my knowledge and belief.

Q. You do not know why that account has been kept under that heading?

A. It was customary heretofore to keep them all together. I suppose that was the reason (referring to the change above stated).

(The counsel for complainant objected.)

H. M. COWAN.

Raleigh, N. C., May 25th, 1893.

Sworn and subscribed before me 25th May, 1893.

W. T. SMITH, *Com'r.*

61 R. L. BURKHEAD, who was summoned to appear on the 26th, being examined this day by consent, deposes as follows:

Examined by J. W. HINSDALE, Esq., of counsel for complainants:

Q. What are your official duties in the treasurer's office?

A. I am clerk to the treasurer *ex officio* and I am clerk to the

treasurer of the Soldiers' home and to the treasurer of the experiment station.

Q. What is this book that I have in my hand?

A. That book is the book of the agricultural department—record of their receipts and expenditures—and of the experiment station. This is kept by me.

Q. The account that I see on page 386 of this book is headed, "Experiment station of the department of agriculture." What is this account?

A. That is the North Carolina experiment station account.

Q. It shows the amounts received from the United States Treasurer?

A. Yes, sir.

Q. I notice on February 12th, 1890, an entry, "To check from D. W. Bain, treasurer *ex officio* North Carolina department of agriculture." From what fund was that paid to the experiment station?

A. North Carolina department of agriculture.

Q. Do I understand that this \$1,000 was paid over to the experiment station out of the funds in the department of agriculture arising from the fertilizer tax?

A. I suppose it was. I don't know of my own knowledge.

Q. From what sources did the North Carolina department of agriculture receive its funds at that time?

A. I don't know, sir.

Q. Is there a corresponding entry to this in the account of the department of agriculture?

A. Yes, sir.

62 Q. Will you be kind enough to turn to that?

A. That is on page 15 on this book, and the entry is February 11th, 1890; board No. of voucher, 1088; number and order of payment, 24; D. W. Bain, treasurer Hatch fund; paid Feb'y 11th, 1890, \$1,000.

Q. Do you know what the Hatch fund is?

— I do not, sir.

Q. I notice on June 28th an entry, "To check from treasurer department of agriculture, \$1,000." Will you please turn to the corresponding entry in the department of agriculture account and state what it is?

A. On page 19 the entry is "D. W. Bain, treasurer experiment station, one thousand dollars, June 27th, 1890."

Q. (Under date of March 4th, 1891, he paid \$382.00 to experiment station account.) (My books show no such entry. R. L. B.) I find an entry, "To voucher from agricultural department, \$1,000.00." Will you please turn to the corresponding voucher under the department of agriculture account and state what it is?

A. On page 42 the entry is "Board, D. W. Bain, support, March 4th, 1891, \$1,000."

Q. Do you know what the word "support" refers to?

A. Yes, sir; we only have one account with the agricultural department and that is for the support of that department.

Q. I see there is one heading of "Board" and another heading of "Commissioner."

A. I don't know what that is for. Probably Col. Robinson can tell you. I am not able to explain the difference. I know there are two classes of vouchers; one entered under the heading of "Board" and the other under the heading of "Commissioner."

Q. I observe under date of June 20th, 1891, the voucher, 63 "To cash from agricultural department, \$7,000.00." Will you please turn to the corresponding voucher in the agricultural department account and state what it is?

A. Experiment station, \$7,000.00; D. W. Bain, *ex officio* treasurer experiment station, June 20th, 1891, \$7,000.

Q. Upon the date of March 1st, 1892, I see a voucher, "To check State department of agriculture, \$3,000." Will you please turn to the corresponding entry in the agricultural department account and state what it is?

A. I find the entry, "D. W. Bain, treasurer *ex officio* experiment station, February 29th, 1892, \$3,000.00."

Q. What does the voucher that corresponds to this account say?

A. D. W. Bain, treasurer, \$3,000 on account of appropriation to fertilizer control station.

Q. Will you please read from this voucher what appears upon the face of it?

A. February 29th, to amount transferred this day, part payment of appropriation made at the December, 1891, meeting to the experiment and fertilizer control station, \$3,000. The board at the December meeting appropriated the sum of \$5,000 in the following action: Copy. Mr. Leazar moved an appropriation of \$5,000 to the chemical station, which was adopted. T. K. Bruner, secretary.

Q. Please turn to the voucher for \$7,000 which we have just passed over—the voucher of June 20th, 1891. Will you please read what appears upon the face of this voucher?

A. D. W. Bain, treasurer Hatch fund experiment station, June 20th, 1891, to amount order paid the experiment station on account of official analyses of commercial fertilizers charged that day (June 20). The following is the action of the board: Mr.

Leazar moved that the board allow \$8,000 for the work done 64 by the State chemist for the board, subject to a deduction of \$1,000 already paid. Adopted. T. K. Bruner, secretary to the board.

Q. Will you please turn to voucher of March 4th, 1891, \$1,000, and state what appears upon it?

A. D. W. Bain, treasurer experiment station, March 3rd, 1891, to amount appropriated at December, 1890, meeting of the board as part payment for 1891 to the experiment station and fertilizer control station, \$1,000.00. Paid in accord with motion passed at December, 1890, meeting of the board. T. K. Bruner, secretary. D. W. Bain, treasurer of the experiment station, receipts for this money.

Q. Will you please turn now to voucher of June 28th, 1890, and state what appears upon the face of that voucher?

A. These were here before I came, and they are packed away under the supreme court building. This answer would also apply to a voucher for anything before December, 1890.

Q. Please turn to voucher of April 25th, 1892, \$2,000, and state what appears upon the face of it.

A. D. W. Bain, treasurer, April 15th, 1892, to balance appropriated at the December, 1891, meeting of the board, \$2,000, the following being the motion: "Mr. Leazar moved an appropriation of \$5,000 to the chemical station," which was adopted. T. K. Bruner, secretary. (This covers one-half of the fiscal year.) The \$3,000 was paid on warrant #1246, February 29th, 1892.

Q. The warrant #1246 is that which appears under date of March 1st, 1892?

A. Yes, sir.

Q. Will you please look at voucher for the entry of July 2d, 1892, \$3,000, and state what appears upon the face of it?

A. Department of agriculture, board of agriculture. D. 65 W. Bain, treasurer experiment station, debtor, June 30th, 1892, to amount appropriated at the June meeting of the board to pay for official analytical work done for department of agriculture, \$3,000. On the back of this voucher appears: D. W. Bain, *ex officio* treasurer, will pay the within bill of \$3,000. Received payment. D. W. Bain, treasurer *ex officio*, per R. L. Burkhead, clerk. It is stamped: Paid July 1st, 1892.

Q. Out of what moneys were these several payments made?

A. Moneys to the credit of the agricultural department.

Q. Arising from what?

A. I got all of mine from the State treasurer.

Q. Did not all of this money that was placed to the credit of the agricultural department arise from the fertilizer tax?

A. Yes, sir.

Q. I will ask you, sir, if the formula of the receipts and vouchers in all of these cases is not similar to the last one that you have read in full.

A. Yes, sir.

Q. Have you any record of a loan or advancement or payment out of the funds of the department of agriculture to the World's fair?

A. I have that, sir (exhibiting account).

Q. Have you an account in this book headed "Account of World's Fair executive committee" with the department of agriculture?

A. Yes, sir.

Q. Will you please read from this account the several items that appear upon it?

A. January 27th, 1892, credit by board warrant from department of agriculture, #1242, appropriated for expenses of board World's Fair work, 1893, \$9,000.

Q. Can you turn to the voucher or warrant in which that transfer was made?

A. Yes, sir.

Q. What appears upon the face of this warrant?

66 A. D. W. Bain, treasurer *ex officio* boards World's Fair work: D. W. Bain, *ex officio* treasurer of the board of agriculture, will pay the within bill of \$9,000. Received payment, D. W. Bain, treasurer *ex officio*. Department of agriculture, board of agriculture to D. W. Bain, State treasurer, debtor, January 27th, 1892, to amount appropriated to Columbian Exposition work, as per enclosure, \$9,000.

Q. Please read the enclosure.

A.—

RALEIGH, N. C., January 27th, 1892.

Hon. D. W. Bain, State treasurer, Raleigh, N. C.

DEAR SIR: At the June, 1892, session of the State board of agriculture the following action was had: The secretary is instructed to transmit official copies of the action appropriating \$9,000 to the work of making an exhibit at Chicago and of section V of the instructions of the World's Fair executive committee to the State treasurer. In accordance therewith I hand you below the actions referred to. At the December, 1891, meeting of the board of agriculture the following was adopted: Resolved, That the board of agriculture appropriate out of the funds belonging to the said board and now remaining in hand after defraying the current expenses thereof an amount not to exceed the sum of \$9,000, to be used and employed under the direction of said board in making an exhibit of the resources of North Carolina at the World's fair to be held in the city of Chicago in the year 1893. At the January, 1892, meeting of the board the following was adopted, it being section V of the instructions to the executive committee: That the said executive committee is authorized to draw warrants on the treasurer for money to defray the necessary expenses herein contemplated, to be paid by him out of the appropriation heretofore made or any appropriation which may hereafter be made by the board of agriculture for the purpose of making an illustrated exhibit at the World's fair at Chicago. All of which is respectfully submitted.

67

Very respectfully yours,

T. K. BRUNER, *Secretary*.

(This letter is written upon paper headed "the North Carolina department of agriculture.")

Q. This payment was made to whom and when—amounting to \$9,000?

A. It was made to T. K. Bruner, commissioner, on January 28th, 1892, \$1,500.00; on January 19th, \$500.00, and on June 17th, \$500; on July 22d, \$5,000; on November 29th, \$1,500.00, all in the year 1892, making an aggregate of \$9,000. The \$9,000 was paid over in bulk to Bain, State treasurer, and Bain, State treasurer, made these several disbursements to Bruner, amounting to \$9,000 in the aggregate, as stated before, \$9,000 in all being appropriated by the board of agriculture.

Q. What account appears from pages one to ten, inclusive, in this book?

A. Account of the North Carolina experiment station for the fiscal year beginning December 1st, 1889, and ending Nov. 30th, 1890.

Q. What account appears in this book from pages 13 to 24, inclusive?

A. Account of department of agriculture for fiscal year beginning Dec. 1st, 1889, ending Nov. 30th, 1890.

Q. What account appears from page 26 to page 36, inclusive?

A. Account of N. C. experiment station, fiscal year beginning Dec. 1st, 1890, and ending Nov. 30th, 1891.

Q. What account appears on pages 39 to 49, inclusive?

A. Account of department of agriculture for fiscal year beginning Dec. 1st, 1890, and ending Nov. 30th, 1891.

Q. What account appears on pages 51 to 62, inclusive?

A. Account N. C. experiment station, fiscal year beginning Dec. 1st, 1891, ending Nov. 30th, 1892.

Q. What account appears on pages 63 to 73, inclusive?

68 A. Account of N. C. department of agriculture, fiscal year beginning Dec. 1st, 1891, ending Nov. 30th, 1892.

Q. What account appears on pages 74 to 78, inclusive?

A. Account of experiment station, fiscal year beginning Dec. 1st, 1892, up to the current month.

Q. What appears on pages 88 to 92, inclusive?

A. Account of N. C. department of agriculture from Dec. 1st, 1892, to the current month. That is all that appears on this book except what we have already seen.

Q. Will you please turn to voucher of March 9th, 1893, W. S. Primrose, \$670.66, and state what appears on the face of it?

A. The following appears on the face of the warrant: "Department of agriculture board of agriculture. To W. S. Primrose, Dr., March 9th, 1893, to premiums on insurance as per enclosed list, \$670.66. The board of agriculture, at its December, 1892, meeting, ordered the insurance on the building and furniture increased to \$25,000. T. K. Bruner, secretary." This is for insurance on the agricultural building & furniture.

Q. Please turn to voucher # 1334, S. McD. Tate, \$3,000, and state what appears upon it.

A. "To S. McD. Tate, treas. experiment station, on account of appropriation for analytical work, Dr. The N. C. board of agriculture to S. McD. Tate, treas. experiment station, Dr., March 8th, 1893, to balance of semi-annual appropriation for analytical work, \$3,000."

Q. Please turn to voucher # 2165, P. C. Ennis, incidentals, \$135.56, and state what appears.

A. The items are—

Southern Express Co.....	\$90 05
Western Union Telegraph Company.....	31 42
Postal Telegraph & Cable Co. ....	14 09

69 Q. Please turn to voucher # 1336, Josephus Daniels, printing, \$139.31, and read what appears.



A.—

MARCH 13TH, 1893.

Department of agriculture, board of agriculture, to Josephus Daniels,  
State printer, Dr.

Jan. 19th, 1893.	Printing 10,000 monthly report blanks..	\$32 50
Feb. 7th.	Printing 6,000 copies of bulletin—	
	Composition.....	62 06
	Press-work .....	31 25
	Binding .....	13 50
Total.....		\$139 31

Q. Please turn to voucher 1331, Feb. 18th, 1893, \$2,000, and state what appears.

A. Department of agriculture, board of agriculture, to N. C. agricultural experiment station, Dr., Feb. 18th, 1893, to part payment for analytical work for experiment station furnishing samples of fertilizers ordered at the December, 1892, meeting of the board of agriculture, \$2,000.

Q. Please look at voucher # 1339, Edwards & Broughton, paper, printing, etc., \$708.05, date May 12th, 1893, and state what this voucher was given for.

A. Paper, printing, etc.

Q. How many tags appear to be charged for in this voucher and at what price in the aggregate?

A. 615,000 tags at 40c. a thousand.

Q. How many dead-lock hooks and at what price per thousand?

A. 595,000 at 70c. a thousand.

Q. Please look at voucher # 319, date of April 17th, 1893—experiment station voucher—and tell me what it is for.

(Objection by defendants.)

By the JUDGE: Testimony admitted.

A.—

800 copies of bulletin, 88b (b).....	\$16 73
1,200 copies of bulletin, 88c (c)....	22 13
600 ditto, 88d (d).....	37 25

Q. Please look at voucher # 293, dated Mar. 20th, \$149.94—experiment station voucher—and tell me what it is for.

(Obj. by defendants.)

A. This is for paper.

(By the JUDGE: Admitted.)

70 Q. Please turn to board of agriculture voucher # 1303, dated Nov. 8th, 1892, \$669.00, Edwards & Broughton, and state what it is for.

A. Printing, paper, tags, and hooks; 900,000 hooks, \$630.00; 10,000 tags, \$4.00, are among the items.

Q. Please turn to #1281, Josephus Daniels, June 30th, 1892, \$278.10, and state what it is for.

A. Printing, etc.

(It is admitted by counsel for complainant that all of them are for legitimate expenses, except such as are specially noted herein.)

1,000 envelopes World's fair, per Dr. Battle .....	\$3 00
7,680 copies April bulletin .....	95 80
1,500 circulars (opinion Att'y Gen.) .....	5 50
7,680 copies of May bulletin .....	47 01
7,680 copies of June bulletin .....	77 72

Q. Please refer to voucher # 1280, June 20th, \$150.00. What is this?

A. Payment of attorneys' fees in the case of Patapsco Guano Company vs. Board of Agriculture of North Carolina.

Q. Now look at #1279, date of June 18th. What is this?

A. This is for services in the same case. One is to Battle & Mordecai and the other to Busbee & Busbee.

Q. Please look at #1262, May 7th, \$100.00 attorneys' fees (Battle & Mordecai), and state in what case this fee was paid.

A. Case of Lord & Polk Chemical Company vs. Board of Agriculture.

Q. Please turn to Nos. 1257 and 1259, paid on April 8th, 1892, and April 25th, 1892, respectively, and state what these are for.

A. #1257, Josephus Daniels, public printer, for printing, etc. This voucher includes—

Printing 100 list fertilizers .....	\$8 00
7,680 copies February bulletin .....	113 18
7,680 copies March bulletin .....	78 50

(The other items are admitted by complainant to be proper expenditures.)

#1259, Edwards & Broughton, paper, printing, &c., audited and entered April 23rd, 1892. This voucher embraces—

500 tags .....	20
500 tags, 20 } .....	\$1 00
2,000 " 80 } .....	
100,000 tags .....	40 00
96,000 tags .....	38 40
Printing 410,000 abstract, form A 1; 10,000 blank, form A 2; 10,000 blank, form A 3 .....	529 00

(The other items on this voucher are admitted to be proper.)

Q. Please turn to voucher, department of agriculture, #1243, paid on January 30th, 1892, and state what it is for.

A. Josephus Daniels, State printer, paper, printing, etc., audited and entered Jan. 29th, 1892. This voucher contains the following items:

Balance on press-work, November bulletin.....	\$8 00
Printing 1,000 copies December bulletin.....	13 64
Printing 7,680 copies January bulletin.....	45 96
Printing 250 slips World's exposition ...	2 00

(The other items on this voucher are admitted to be proper expenditures.)

Q. Please turn to Nos. 1241 and 1240, dated January 25th, 1892, and state what appears upon the faces of them.

A. #1241, Edwards & Broughton, printing fertilizer tags, etc., audited and entered January 22d, 1892. This voucher contains the following items:

Printing 199,000 tags .....	\$79 60
500,000 hooks.....	350 00
Printing 1,500 tags .....	60

#1240, audited and entered January 22d, 1892. This is for printing bill in the case of Board of Agriculture vs. Durham Fertilizer Company, in the Supreme Court, \$7.40.

Q. Please look at #1227, date of 19th of December, 1891, \$434.45, and state what this is for.

A. This is for—

Attorneys' fees, deposition, Board of Agriculture vs. Durham Mfg. Co.....	\$20 00
Ditto .....	20 00
Stenographer's services.....	9 60
Professional services & expenses attending court.....	111 85
(B. & M.)	
Professional services in the same case.....	125 00
(B. & B.)	
Expenses incurred in taking depositions, &c.....	48 00
Professional services of Hicks & Hicks in same case.....	100 00
Total.....	\$434 45

Q. Please look at voucher #1210 and state what it is for.

A. Audited and entered November 21st, 1891; tags and printing, amounting to \$170.80.

Q. Please look at voucher #1212 and state what it is for.

A. Audited and entered November 28th, 1891; Josephus Daniels. This voucher contains the following items:

7,680 copies of October bulletin .....	\$32 81
7,680 copies of November bulletin .....	50 75

(The other items on this voucher are admitted to be correct.)

Q. Please look at voucher #1211 and state what it is for.

A. November 28th, 1891. This voucher contains the items:

Printing 330 tags.....	14
Printing 262,000 (tags).....	104 80
500,000 hooks.....	350 00

(The other items in the voucher are admitted to be proper charges.)

Q. Please look at voucher # 1907 and state what it is for.

A. This is dated department of commissioner, audited and entered September 18th, 1891. To printing mailing list, agricultural bulletin, \$22.

Q. Please look at # 1193, date August 31st, 1891, and state what it is for.

A. This voucher is for T. C. Harris' salary as curator, audited and entered August 31st, 1891—salary for Aug., 75 dollars.

Q. Do you know what Mr. Harris is curator of?

A. The State museum of the agricultural department.

Q. Please look at # 1192 and state what that is for.

A. Josephus Daniels, printing, audited and entered Aug. 21st, 1891. This voucher contains the following items:

5,760 copies June bulletin .....	\$59 31
5,760 copies July bulletin .....	16 07
Paper and printing 16,000 wrappers .....	20 00

(The other items on this voucher are admitted to be correct.)

Q. Please look at voucher #1832, \$957.35, and state what this is for.

A. Paper, printing, etc., audited and entered June 10th, 1891, department of commissioner. This voucher contains the following items:

100,000 tags and printing .....	\$40 00
Reprinting 20,000 tags .....	4 00
25,000 tags and printing .....	10 00
50,000 tags and printing .....	20 00
10,000 tags and printing .....	4 00
400,000 D. L. hooks .....	280 00
400,000 abstract blanks } .....	545 00
10,000 blanks, form A 2 }	
10,000 blanks, form A 3 }	
10,000 additional abstracts .....	8 00
Additional cost larger and better paper used in statistical blanks .....	37 00

(The other items in this voucher are admitted to be correct.)

Q. Please turn to voucher # 1189 and state what it is for.

A. Josephus Daniels, printing, audited and entered June 27th, 1891. This voucher contains—

3,840 copies of May bulletin .....	\$63 88
10,000 additional copies of May bulletin .....	2 75

(The other items of this voucher are admitted to be proper.)

Q. Now, please look at # 1817, sir, and state what it is for.

A. Audited and entered May 21st, and is for fifty-two reams of paper, \$117.22.

Q. Please look at # 1172, May 2d. What is this for?

A. Josephus Daniels, printer, audited and entered May 2d, 1891. This voucher contains—

Printing December bulletin.....	\$26 90
10,000 monthly railroad reports .....	35 00
1,000 order sheets for tags.....	6 00
March bulletin.....	28 22
April bulletin.....	59 81

(The other items in this voucher are admitted to be correct.)

Q. Now, please, sir, look at # 1168, April 10th, 1891. What is this for?

A. Edwards & Broughton, paper and printing, audited and entered April 10th, 1891; hooks and tags, \$549.60.

Q. What is # 1164 for?

A. Edwards & Broughton, printing, audited and entered Feb. 19th, 1891. The bill contains the following items:

550,000 tags.....	\$220 00
550,000 hooks..	375 00
Express charges.....	37 70

(The other items on this voucher are admitted to be correct.)

Q. Will you please look at department of agriculture account and state for what months Mr. T. C. Harris received a salary as curator, commencing with the entry of Dec. 31st, 1890?

A. On December 31st he received \$50.00. He has received every month from December 31st, 1890, up to the present time \$75.00 per month, and is paid by the department of agriculture.

Col. HINSDALE: I wish to file with this account as a part of this deposition all these accounts. I do not care to go back of the fiscal year of 1890-'91.

The attorney for defendants objects to accounts, except those of the department of agriculture, and to any of those back of January 21st, 1891.

The paper hereto annexed, marked "Exhibit B," is a copy of the accounts as they appear upon the books in this office from December 1st, 1890, to May 1st, 1893.

R. L. BURKHEAD.

Raleigh, N. C., May 25th, 1893.

Sworn & subscribed before me this 25th of May, 1893.

W. T. SMITH, Com'r.

*Paid on Account of Support of the No. Ca. Experiment Station.*

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
108	920	1	F. B. Carpenter.....	Dec. 1st, '90	\$91 66
106	918	2	H. B. Battle.....	"	191 66
132	936	3	H. L. Harris.....	"	11 75
123	931	4	R. S. Tucker.....	"	18 62
107	919	5	B. W. Kilgore.....	"	100 00
125	935	6	Thos. H. Briggs & Sons.....	"	8 86
111	923	7	Gerald McCarthy.....	"	83 33
121	917	8	Crowder & Rand.....	2nd,	59 21
127	933	9	Latta & Myatt.....	"	47 26
128	937	10	F. E. Emry.....	"	45 00
110	922	11	F. E. Emry.....	"	125 00
122	924	12	W. F. Massey.....	5th,	41 66
116	928	13	J. P. B. Massey.....	"	40 00
129	938	14	W. F. Massey.....	"	38 39
124	932	15	Williamson & Upchurch.....	"	67 40
120	916	16	Morgan Envelope Co.....	"	13 00
126	934	17	E. L. Albros.....	"	19 43
119	915	18	Va. Paper Co.....	"	50 00
101	906	19	Northern Distilling Co.....	12th,	22 50
133	939	20	H. B. Battle.....	"	50 00
130	940	21	".....	31st,	191 66
134	941	22	B. W. Kilgore.....	"	100 00
135	942	23	F. B. Carpenter.....	"	91 66
136	943	24	J. R. Harris.....	"	75 00
137	944	25	Frank E. Emry.....	"	125 00
140	947	26	H. L. Harris.....	"	50 00
141	948	27	J. Hunter Lawrence.....	"	25 00
144	951	28	Wm. Whitaker.....	"	25 00
145	952	29	Willie Carroll.....	"	16 66
					<u>\$1,832 71</u>

## January, 1891.

139	946	30	W. F. Massey.....	Jan. 2d, '91	41 66
142	949	31	J. P. B. Massey.....	"	48 00
138	945	32	Gerald McCarthy.....	3rd,	100 00
143	950	33	T. K. Bruner.....	"	16 66
146	971	34	Allen & Cram.....	5th,	47 40
164	961	35	Julius Lewis & Co.....	"	18 50
156	959	36	H. L. Harris, sec't'y.....	"	50 00
163	953	37	".....	"	40 00
157	958	38	".....	"	6 17
158	957	39	".....	"	275 00
160	955	40	".....	"	9 16
162	954	41	".....	"	9 75
159	956	42	".....	"	9 00
147	960	43	".....	"	40 00
161	962	44	N. V. Randolph & Co.....	7th,	12 38
154	964	45	Emil Greiner.....	7th,	14 35
149	969	46	Wire Fence Imp. Co.....	"	24 53
155	963	47	Fairbanks & Co.....	"	68 00
148	970	48	Brandon Printing Co.....	"	50 50
152	966	49	Eimer & Amend.....	"	14 56
151	967	50	Photo. Eng. Co.....	"	14 00

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
150	968	51	Raleigh Gas Co. ....	Jan. 8th, '91	16 40
153	965	52	W. B. Hutchings. ....	12th,	36 80
131	972	53	Raleigh Oil Mill & Fertilizer Co. ....	"	25 67
173	977	54	J. C. S. Lumsden. ....	20th,	8 37
167	983	55	H. L. Harris, sec't'y . . . .	"	25 00
177	973	56	F. E. Emry. ....	"	45 00
175	975	57	Do. ....	"	75 00
176	974	58	Do. ....	"	70 00
166	984	59	Jas. McKimmon & Co. ....	21st,	4 90
169	981	60	N. V. Randolph. ....	22nd,	10 00
170	980	61	Henry J. Green. ....	"	17 00
168	982	62	Webbs Adder Co. ....	"	7 14
165	985	63	Jas. W. Queen & Co. ....	"	4 43
172	978	64	B. Westerman & Co. ....	"	13 25
171	979	65	Norman W. Henly & Co. ....	"	12 75
174	976	66	Eimer & Amend. ....	"	37 67
183	991	67	Gerald McCarthy. ....	31st,	100 00
182	990	68	Frank E. Emry. ....	"	125 00
187	995	69	T. K. Bruner. ....	"	16 66
185	993	70	H. L. Harris. ....	"	50 00
190	998	71	Willie Carroll. ....	"	16 66
186	994	72	J. Hunter Lawrence. ....	"	25 00
178	986	73	H. B. Battle. ....	"	191 66
192	1000	74	Do. ....	"	42 96
189	997	75	Wm. Whitaker. ....	"	25 00
180	988	76	F. B. Carpenter. ....	"	91 66
181	989	77	J. R. Harris. ....	"	75 00
179	987	78	B. W. Kilgore. ....	"	100 00
					<u>\$2,178 60</u>

## February, 1891.

191	999	79	J. M. Broughton & Co., ag'ts.	Feb'y 4th,	25 80
188	996	80	J. B. P. Massey. ....	"	48 00
184	992	81	W. F. Massey. ....	"	41 66
194	1001	82	Raleigh Telephone Ex. ....	21st,	120 00
200	1008	83	J. C. Brewster, m'g'r. ....	"	7 00
193	1002	84	H. P. Bilyeu. ....	"	15 00
197	1005	85	R. S. Tucker. ....	"	29 43
201	1012	86	H. L. Harris. ....	"	55 00
208	1011	87	Do. ....	"	3 20
203	1010	88	Do. ....	"	5 50
206	1016	89	J. C. S. Lumsden. ....	"	28 35
199	1007	90	Raleigh O. M. & Fert Co. ....	24th,	21 77
202	1009	91	J. M. Broughton & Co, ag'ts.	"	31 80
204	1013	92	Frank E. Emry. ....	"	40 08
78 207	1014	93	Frank E. Emry. ....	24th,	50 00
195	1003	94	N. C. Wagon Co. ....	25th,	32 50
221	1029	95	Willie Carroll. ....	28th,	16 66
220	1028	96	William Whitaker. ....	"	25 00
210	1018	97	B. W. Kilgore. ....	"	100 00
212	1020	98	J. R. Harris. ....	"	75 00
211	1019	99	F. B. Carpenter. ....	"	91 66
219	1027	100	T. K. Bruner. ....	"	16 66



Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
216	1024	101	H. L. Harris.....	Feb'y 28th, '91	50 00
209	1017	102	H. B. Battle.....	"	191 66
217	1025	103	J. N. Hubbard.....	"	20 00
					<u>\$1,141 73</u>

## March, 1891.

214	1022	104	Gerald McCarthy.....	Mar. 2nd, '91	100 00
215	1023	105	W. F. Massey.....	3rd,	41 66
218	1026	106	J. B. P. Massey.....	"	48 00
222	1030	107	H. B. Battle.....	"	625 00
213	1021	108	F. E. Emry.....	"	125 00
223	1031	109	Gerald McCarthy.....	18th,	50 00
205	1015	110	Wiard Mlow Co.....	19th,	8 87
196	1004	111	Wm. P. Walters' Sons.....	"	11 40
198	1006	112	Eimer & Amend.....	"	64 19

\$1,074 12

234	1042	113	T. K. Bruner.....	April 4th, 1891	16 66
228	1039	114	T. L. Blalock.....	"	60 00
227	1035	115	J. R. Harris.....	"	75 00
226	1034	116	F. B. Carpenter.....	"	91 66
237	1046	117	Willie Carroll.....	"	16 66
233	1041	118	J. B. Hubbard.....	"	22 50
232	1040	119	Hunter L. Harris.....	"	50 00
225	1033	120	B. W. Kilgore.....	"	100 00
224	1032	121	H. B. Battle.....	"	191 66
236	1044	122	Wm. Whitaker.....	"	25 00
229	1036	123	Frank E. Emry.....	"	125 00
231	1038	124	W. F. Massey.....	"	41 66
230	1037	125	Gerald McCarthy.....	"	50 00
255	1063	126	H. L. Harris, sec'y.....	6th,	64 35
257	1065	127	Do.....	"	60 00
247	1055	128	Raleigh Gas Co.....	"	27 20
246	1054	129	W. C. & A. B. Stronach.....	"	5 00
253	1061	130	H. L. Harris, sec'y.....	"	50 93
249	1057	131	Do.....	"	16 25
251	1059	132	Do.....	"	23 25
254	1062	133	Do.....	"	28 20
252	1060	134	Do.....	"	19 70
256	1064	135	Do.....	"	15 00
248	1056	136	Do.....	"	24 00
250	1058	137	Do.....	"	11 00
238	1046	138	John R. Zimmerman.....	"	40 00
243	1051	139	T. W. Wood & Sons.....	"	10 90
242	1050	140	Alexander Seed & Drug Co.....	"	10 55
239	1047	141	E. H. & J. A. Meadows.....	"	11 60

241	1049	142	Jas. L. Tobin.....	April 6th, '91	5 34
240	1048	143	Baker & Adamson.....	"	16 85
244	1052	144	Eimer & Amend.....	"	29 56
261	1069	146	W. F. Massey.....	7th,	30 00

*Paid on Account of Support of the No. Ca. Experiment Station—Continued.*

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
235	1043	147	J. B. P. Massey .....	April 7th, '91	48 00
258	1066	148	Frank E. Emry .....	10th,	85 00
259	1067	149	Do. ....	"	43 75
260	1068	150	Do. ....	"	40 00
268	1070	151	Gerald McCarthy .....	"	50 00
276	1071	152	H. L. Harris, sec't'y .....	"	11 88
275	1072	153	Do. ....	"	20 00
270	1073	154	Do. ....	"	469 28
269	1074	155	Do. ....	"	130 00
274	1075	156	E. B. Crow .....	"	20 00
273	1076	157	Henry Nungesser .....	20th,	4 11
271	1078	158	The Globe Co. ....	"	12 00
272	1077	159	Peter Henderson .....	"	15 55
263	1081	160	Chas. F. Pitt & Sons. ....	"	15 91
262	1082	161	Baker & Adamson. ....	"	14 55
266	1079	162	Raleigh Oil Mill & Fert. Co. ....	21st,	9 60
277	1083	163	H. B. Battle .....	30th,	191 66
278	1084	164	B. W. Kilgore .....	"	100 00
280	1086	165	J. R. Harris .....	"	75 00
281	1087	166	T. L. Blalock .....	"	60 00
282	1088	167	Frank E. Emry .....	"	125 00
285	1091	168	H. L. Harris .....	"	50 00
286	1092	169	J. B. Hubbard .....	"	22 50
287	1093	170	T. K. Bruner .....	"	16 66
289	1095	171	Wm. Whitaker, .....	"	25 00
290	1096	172	Willie Carroll .....	"	16 66
					<u>\$3,042 97</u>

May, 1891.

283	1089	173	Gerald McCarthy .....	May 1st, '91	50 00
284	1090	174	W. F. Massey .....	2nd,	41 66
288	1094	175	J. B. P. Massey .....	"	48 00
279	1085	176	F. B. Carpenter .....	4th,	91 66
264	1080	177	N. C. State Penitentiary ....	"	18 90
292	1098	178	H. B. Battle .....	16th,	95 83
291	1097	179	Gerald McCarthy .....	18th,	50 00
301	1102	180	Frank E. Emry .....	19th,	80 00
300	1099	181	H. L. Harris .....	"	7 04
295	1101	182	Do. ....	"	10 68
293	1100	183	Do. ....	"	33 00
296	1106	184	Jones & Powell .....	"	8 60
298	1104	185	Latta & Myatt .....	"	14 66
265	1109	186	Williamson & Upchurch ....	21st,	62 25
305	1111	187	H. L. Harris .....	"	50 00
297	1105	188	J. M. Broughton & Co. ....	"	23 80
303	1113	189	Do. ....	"	6 80
267	1108	190	Crowder & Rand. ....	26th,	36 15
308	1115	191	H. B. Battle, director ....	"	12 00
309	1116	192	H. B. Battle, director .....	May 26th, '91	11 80
294	1107	193	Everett, Wadley Co. ....	27th,	6 00
299	1103	194	Norman W. Henley & Co. ....	"	12 75
304	1112	195	W. S. Powell & Co. ....	"	6 00
306	1110	196	Ass. Am. Coll. & Expt'n't Sta's.	"	10 00

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
312	1119	197	F. B. Carpenter.....	30th,	91 66
311	1118	198	B. W. Kilgore.....	"	100 00
317	1124	199	Hunter L. Harris.....	"	50 00
324	1131	200	H. L. Harris.....	"	40 00
310	1117	201	H. B. Battle.....	"	95 83
319	1126	202	T. K. Bruner.....	"	16 66
318	1125	203	J. B. Hubbard.....	"	25 00
321	1128	204	Wm. Whitaker.....	"	25 00
					<u>\$1,231 73</u>

June, 1891.

322	1129	205	Willie Carroll.....	June 1st, 1891	16 66
323	1130	206	E. M. Uzzell.....	"	25 00
313	1120	207	J. R. Harris.....	"	75 00
314	1121	208	Frank E. Emry.....	"	125 00
302	1114	209	Do.....	2nd,	50 00
315	1122	210	Gerald McCarthy.....	"	50 00
316	1123	211	W. F. Massey.....	"	41 66
320	1127	212	J. B. P. Massey.....	"	48 00
325	1132	213	H. L. Harris, sec't'y.....	12th,	60 00
326	1133	214	H. B. Battle.....	20th,	95 83
327	1134	215	Raleigh Paper Co.....	"	274 89
328	1135	216	J. L. Cunni-ghim, sec't'y...	"	501 00
329	1136	217	H. B. Battle.....	30th,	95 91
330	1137	218	B. W. Kilgore.....	"	100 00
332	1139	219	J. R. Harris.....	"	75 00
335	1142	220	J. L. Cunningham.....	"	25 00
343	1150	221	T. L. Blalock.....	"	16 00
339	1146	222	William Whitaker.....	"	25 00
336	1143	223	J. B. Hubbard.....	"	30 00
344	1151	224	J. L. Cunningham.....	"	17 37
337	1144	225	T. K. Bruner.....	"	16 66
333	1140	226	Gerald McCarthy.....	"	100 00
338	1145	227	F. E. Massey.....	"	125 00
342	1149	228	H. L. Harris.....	"	25 00
					<u>\$2,013 98</u>

July, 1893.

340	.....	229	Willie Carroll.....	July 1st,	16 70
7	.....	230	J. L. Cunningham, sec'y....	15th,	14 12
8	.....	231	Do.....	"	9 20
16	.....	232	Do.....	"	50 00
3	.....	233	Do.....	"	7 20
5	.....	234	Do.....	"	570 33
9	.....	235	Do.....	"	50 78
15	.....	236	Gerald McCarthy.....	July 16th,	62 50
2	.....	237	Frank E. Emry.....	"	65 00
1	.....	238	Do.....	"	95 00
341	.....	239	J. B. P. Massey.....	18th,	48 00
334	.....	240	W. F. Massey.....	"	41 74

*Paid on Account of Support of the No. Ca. Experiment Station—Continued.*

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
14	.....	241	R. S. Tucker.....	18th,	10 00
331	.....	242	F. B. Carpenter.....	20th,	91 74
12	.....	243	W. H. & R. S. Tucker & Co.	"	17 08
4	.....	244	W. C. & A. B. Stronach...	"	5 00
10	.....	245	L. R. Wyatt.....	"	12 90
11	.....	246	Do.....	"	5 75
13	.....	247	Raleigh Telephone Exchange	28th,	48 00
6	.....	248	Eimer & Amend.....	"	16 49
21	.....	249	T. L. Blalock.....	21st,	60 00
29	.....	250	Wm. Whitaker.....	"	25 00
26	.....	251	E. B. Crow.....	"	22 50
27	.....	252	T. K. Bruner.....	"	16 66
20	.....	253	J. R. Harris.....	"	83 33
25	.....	254	J. L. Cunningham.....	"	50 00
					<u>\$1,495 02</u>

August, 1891.

31	.....	255	W. F. Massey.....	1st,	75 00
17	.....	256	H. B. Battle.....	"	208 33
30	.....	257	Willie Carroll.....	"	16 66
23	.....	258	Gerald McCarthy.....	"	62 50
32	.....	259	J. L. Cunningham.....	4th,	445 72
22	.....	260	Frank E. Emry.....	"	125 00
28	.....	261	O. E. Warren.....	3rd,	50 00
33	.....	262	J. L. Cunningham.....	10th,	200 00
24	.....	263	W. F. Massey.....	11th,	41 66
18	.....	264	B. W. Kilgore.....	12th,	100 00
19	.....	265	F. B. Carpenter.....	18th,	91 66
39	.....	266	Frank E. Emry.....	31st,	125 00
					<u>\$1,541 53</u>

September, 1891.

37	.....	267	J. R. Harris.....	1st,	83 33
47	.....	268	Willie Carroll.....	"	16 66
48	.....	269	J. L. Cunningham.....	"	50 00
34	.....	270	H. B. Battle.....	2nd,	208 33
40	.....	271	Gerald McCarthy.....	1st,	125 00
42	.....	272	J. L. Cunningham.....	"	50 00
43	.....	273	E. B. Crow.....	"	25 00
41	.....	274	W. F. Massey.....	"	41 66
46	.....	275	Wm. Whitaker.....	"	25 00
35	.....	276	B. W. Kilgore.....	"	100 00
38	.....	277	T. L. Blalock.....	2nd,	60 00
45	.....	278	O. E. Warren.....	"	50 00
44	.....	279	T. K. Bruner.....	3rd,	16 66
52	.....	280	D. H. Roe & Co.....	4th,	8 94
64	.....	281	John F. Diemor.....	"	27 17
54	.....	282	Levy Type Co.....	"	9 60
65	.....	283	Va. Paper Co.....	"	25 38
51	.....	284	Eimer & Amend.....	"	26 83
55	.....	285	Peter Henderson & Co.....	"	7 80

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	And No.				
82	59	286	J. L. Cunningham	Sep. 4th, '91	16 00
	62	287	Do.	"	40 00
	60	288	Do.	"	9 59
	67	289	Do.	"	25 00
	66	290	Do.	"	31 50
	61	291	Do.	"	4 40
	58	292	Do.	"	15 00
	57	293	Do.	"	40 00
	56	294	Do.	"	60 00
	53	295	H. B. Battle	5th,	47 05
	63	296	L. R. Wyatt	"	109 20
	68	297	Frank E. Emry	7th,	75 00
	50	298	Crowder & Rand	"	44 49
	49	299	Williamson & Upchurch	"	24 00
	71	300	E. M. Uzzell	7th,	38 00
108		301	J. L. Cunningham	9th,	19 17
	36	302	F. B. Carpenter	"	91 66
	69	303	Raleigh Gas Co	11th,	26 60
	73	304	Gerald McCarthy	16th,	62 50
	72	305	H. B. Battle	17th,	104 16
	74	306	J. L. Cunningham	"	269 50
	70	307	Raleigh Tel. Ex.	19th,	11 00
	78	308	J. L. Cunningham	23rd,	20 00
	76	309	Do.	"	25 00
	82	310	Do.	"	6 00
	83	311	Do.	"	23 00
	81	312	Do.	23rd,	380 23
	79	313	Do.	"	26 65
	84	314	Do.	"	36 00
	86	315	Do.	"	15 41
	77	316	Do.	"	17 00
	80	317	Do.	"	5 30
	90	318	Do.	"	26 76
	75	319	Do.	"	29 60
	88	320	A. Williams & Co.	24th,	6 25
	87	321	Brandon Printing Company	"	49 49
	85	322	Frank E. Emry	"	80 00
	89	323	Raleigh Gas Co	28th,	15 80
	92	324	B. W. Kilgore	30th,	100 00
	94	325	T. L. Blalock	"	70 00
	93	326	F. B. Carpenter	"	91 66
	95	327	J. S. Meng	"	33 33
110		328	B. S. Skinner	"	66 66
	91	329	H. B. Battle	"	104 17
109		330	Do.	"	300 00
					<u>\$3,649 00</u>

October, 1891.

104	331	Willie Carroll	1st,	16 66
105	332	J. L. Cunningham	2nd,	60 00
99	333	Do.	"	50 00
101	334	Paul Monk	"	5 00
106	335	T. K. Bruner	"	16 66
97	336	Gerald McCarthy	"	62 50

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.		No. in order of payment.	To whom paid.	Date of pay- ment.	Amount.
Sta. No.	Aud. No.				
83	107	337	J. L. Cunningham	Oct. 3 <sup>rd</sup> , '91	\$5 00
	96	338	F. E. Emry	"	125 00
	103	339	Wm. Whitaker	"	25 00
	102	340	Alexander Rhodes	3 <sup>rd</sup> ,	16 66
	98	341	W. F. Massey	"	83 32
	110	342	H. B. Battle	16 <sup>th</sup> ,	104 16
	111	343	B. W. Kilgore	17 <sup>th</sup> ,	50 00
	112	344	F. E. Emry	27 <sup>th</sup> ,	100 00
	114	345	Do.	"	50 00
	113	346	J. L. Cunningham, sec't'y.	"	40 00
	122	347	W. F. Massey	31 <sup>st</sup> ,	83 33
	123	348	B. S. Skinner	"	66 66
	128	349	Wm. Whitaker	"	25 00
	119	350	J. S. Meng	"	66 66
	118	351	T. L. Blalock	"	70 00
	117	352	F. B. Carpenter	"	91 66
	120	353	Willie Carroll	"	16 66
	121	354	Gerald McCarthy	"	125 00
	115	355	H. B. Battle	"	104 17
					<u>\$1,459 10</u>

November, 1891.

	127	356	Alexander Rhodes	2 <sup>nd</sup> ,	50 00
	120	357	Frank E. Emry	"	125 00
	124	258	J. L. Cunningham	"	50 00
	126	359	T. K. Bruner	"	16 66
	136	360	J. L. Cunningham	"	33 00
	132	361	Do.	"	20 00
	138	362	Do.	"	15 00
	134	363	Do.	"	28 35
	130	364	Do.	"	27 75
	131	365	Do.	"	17 25
	135	366	Do.	"	86 65
	137	367	T. L. Blalock	3 <sup>rd</sup> ,	71 45
	133	368	J. L. Cunningham	"	60 00
	116	369	B. W. Kilgore	"	50 00
	125	370	Paul Monk	"	25 00
	140	471	A. Williams & Co.	4 <sup>th</sup> ,	10 31
	144	372	Carlos Reese & Co.	5 <sup>th</sup> ,	4 05
	147	373	Jas. L. Tobin	"	4 50
	148	374	J. H. Bunnell & Co.	"	2 13
	151	375	Emil Greiner	"	6 69
	153	376	Eimer & Amend	"	75 66
	152	377	Baker Bros. & Co.	"	24 24
	141	378	Morgan Envelope Co.	"	62 88
	142	379	N. V. Randolph & Co.	"	7 50
	126	380	Va. Paper Co.	"	9 00
	145	381	Hermann Baumgarten	"	3 55
	150	382	A. B. Dick Co.	"	3 60
	149	383	Whitall, Tatum & Co.	"	19 22
	143	384	Chas. Schribner's Sons	"	10 00
84	154	385	F. E. Emry	6 <sup>th</sup> ,	60 00
	160	386	J. L. Cunningham	14 <sup>th</sup> ,	50 00
	170	387	Do.	17 <sup>th</sup> ,	28 85

*Paid on Account of Support of the No. Ca. Experiment Station—Continued.*

No. of voucher.		No. in order of payment.	To whom paid.	Date of payment.	Amount.
Sta. No.	Aud. No.				
155	.....	388	J. L. Cunningham.....	17th,	5 75
157	.....	389	Do. ....	"	4 50
169	.....	390	Do. ....	"	46 15
159	.....	391	Do. ....	"	305 27
158	.....	392	Do. ....	"	20 00
156	.....	393	Do. ....	"	54 81
167	.....	394	B. Westerman & Co.....	"	56 83
156	.....	395	Eimer & Amend.....	"	7 40
165	.....	396	R. J. Powell.....	18th,	89 98
168	.....	397	Raleigh Oil Mills & Fert. Co.	19th,	40 00
161	.....	398	L. R. Wyatt.....	"	6 45
164	.....	399	John S. Keith.....	"	16 00
162	.....	400	W. C. & A. B. Stronach....	"	5 00
163	.....	401	Crowder & Rand.....	20th,	65 54
171	.....	402	Frank E. Emry.....	21st,	50 00
					<u>\$1,839 97</u>

We, the undersigned committee, appointed by the General Assembly, have examined the entries with the vouchers of the experiment station of the N. C. department of agriculture, on pages 26 to 36, both inclusive, and, finding them to agree, have cancelled the same.

December, 1891.

W. D. TURNER, }  
J. J. LONG, } Committee.  
ZEB. V. WALSER, }  
W. H. McCLURE, }  
J. Q. A. BRYAN, }

*Paid on Account of Support of the No. Ca. Experiment Station.*

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
173	1	B. W. Kilgore.....	Dec. 1st, '91	\$100 00
174	2	F. B. Carpenter.....	"	91 66
178	3	Gerald McCarthy.....	"	125 00
197	4	J. L. Cunningham.....	"	4 00
188	5	Do. ....	"	13 00
189	6	Do. ....	"	9 30
190	7	J. L. Cunningham.....	"	40 00
187	8	Do. ....	"	62 50
193	9	Mrs. A. E. Temple.....	2nd,	40 00
180	10	B. S. Skinner.....	"	66 66
183	11	T. K. Bruner.....	"	16 66
181	12	J. L. Cunningham.....	"	50 00
199	13	Do. ....	"	15 70
191	14	Do. ....	"	25 00
192	15	Do. ....	"	60 00



Paid on Account of Support of the No. Co. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
182	16	Paul Monk .....	2nd,	\$25 00
176	17	J. S. Meng .....	"	66 66
172	18	H. B. Battle .....	"	208 34
185	19	Wm. Whitaker .....	"	25 00
186	20	Willie Carroll .....	"	16 66
139	21	Raleigh Gas Co. ....	"	7 00
198	22	Frank E. Emry .....	"	30 00
177	23	Do. ....	"	125 00
184	24	Alexander Rhodes .....	"	50 00
179	25	W. F. Massey .....	3rd,	83 33
196	26	Thos. H. Briggs & Sons .....	4th,	15 20
195	27	Peter Henderson & Co. ....	5th,	7 25
194	28	Raleigh Gas Co. ....	"	15 60
175	29	T. L. Blalock .....	9th,	70 00
206	30	Henry J. Green .....	16th,	10 70
207	31	H. H. Ballard .....	"	5 00
208	32	Eimer & Amend .....	"	11 15
209	33	The Steven T. Smith Co .....	"	4 50
217	34	J. L. Cunningham .....	"	50 00
203	35	Gerald McCarthy .....	"	8 50
205	36	J. C. S. Lumsden .....	17th,	16 50
215	37	Brewster Hardware Co .....	18th,	14 55
214	38	Crowder & Rand .....	"	7 24
213	39	Raleigh Oil Mills & Fert. Co .....	"	55 01
202	40	J. L. Cunningham .....	"	162 05
201	41	Do. ....	"	257 25
212	42	Do. ....	"	8 25
216	43	Do. ....	"	20 89
200	44	Do. ....	"	5 00
204	45	Do. ....	"	16 00
210	46	J. W. Cobb .....	19th,	3 65
218	47	Frank E. Emry .....	"	50 00
219	48	Do. ....	"	75 00
86				
211	49	W. U. Tel. Co. ....	Dec. 21st,	3 09
220	50	H. B. Battle .....	31st,	208 33
				<u>\$2,457 18</u>

January, 1892.

223	51	T. L. Blalock .....	2d,	75 00
222	52	F. B. Carpenter .....	"	91 66
229	53	J. L. Cunningham .....	"	50 00
227	54	W. F. Massey .....	"	83 33
232	55	Alexander Rhodes .....	"	50 00
233	56	Wm. Whitaker .....	"	25 00
231	57	T. K. Bruner .....	"	16 66
230	58	Paul Monk .....	"	25 00
221	59	B. W. Kilgore .....	"	100 00
228	60	B. S. Skinner .....	4th,	66 66
235	61	Frank E. Emry .....	"	60 00
224	62	J. S. Meng .....	5th,	66 66
226	63	Gerald McCarthy .....	"	125 00

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
234	64	John I. Ferrall.....	6th,	11 66
225	65	Frank E. Emry.....	9th,	125 00
236	66	Mrs. A. E. Temple.....	12th,	20 00
251	67	H. B. Battle.....	18th,	104 16
252	68	A. F. Bowen.....	20th,	20 00
240	69	Edwards & Broughton.....	"	78 38
239	70	J. L. Cunningham.....	"	60 00
248	71	Do.....	"	44 39
247	72	Do.....	"	24 60
246	73	Do.....	"	13 93
238	74	Do.....	"	14 00
237	75	Do.....	"	24 95
250	76	Library Bureau.....	21st,	33 70
243	77	The N. C. Car Co.....	25th,	61 65
245	78	Raleigh Gas Co.....	"	20 80
244	79	Phil. H. Andrews.....	"	38 25
249	80	W. H. & R. S. Tucker & Co.....	"	46 55
242	81	Williamson & Upchurch.....	29th,	30 00
241	82	Raleigh Oil Mills & Fert. Co.....	"	9 85
				<u>\$1,616 84</u>

## February.

266	83	Wm. Whitaker.....	1st,	30 00
255	84	F. B. Carpenter.....	"	91 66
264	85	T. K. Bruner.....	"	16 66
262	86	J. L. Cunningham.....	"	50 00
263	87	Paul G. Monk.....	"	30 00
256	88	T. L. Blalock.....	"	75 00
257	89	J. S. Meng.....	"	66 66
254	90	B. W. Kilgore.....	"	100 00
253	91	H. B. Battle.....	"	104 16
261	92	B. S. Skinner.....	2nd,	66 66
265	93	Alexander Rhodes.....	"	50 00
260	94	W. F. Massey.....	"	83 33
87				
259	95	Gerald McCarthy.....	2d,	125 00
266	96	John I. Terrell.....	"	16 66
276	97	F. E. Emry.....	3rd,	50 00
274	98	Geo. Tait & Sons.....	"	4 35
268	99	James L. Tobin.....	"	3 50
269	100	Baker & Adamson.....	"	75 00
270	1	Eimer & Amend.....	"	135 70
271	2	A. B. Dick Co.....	"	5 70
272	3	The American News Co.....	"	9 75
267	4	Mrs. A. E. Temple.....	"	20 00
273	5	J. L. Cunningham, sec'y.....	4th,	12 63
275	6	Raleigh Gas Co.....	6th,	23 80
258	7	F. E. Emry.....	8th,	125 00
279	8	J. L. Cunningham, sect.....	16th,	54 50
280	9	Do.....	"	40 00
277	110	H. B. Battle.....	16th,	104 16
278	1	Herman Baumgarten.....	"	3 50

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
284	2	Rocky Mount Iron Works.....	16th,	5 13
287	3	J. T. Lovitt & Co.....	"	8 85
281	4	A. F. Bowen.....	18th,	20 00
282	5	Frank E. Emry.....	"	70 00
283	6	Do.....	"	40 00
288	7	J. C. S. Lumsden.....	19th,	16 65
285	8	W. B. Hutchings.....	20th,	20 65
286	9	Raleigh Oil Mills & Fert. Co.....	"	7 05
296	120	Gerald McCarthy.....	29th,	125 00
289	120½	Raleigh Telephone Exchange.....	23rd,	120 00
				<u>\$2,007 27</u>

## March.

294	121	J. S. Meng.....	1st,	66 66
290	2	H. B. Battle.....	"	104 16
300	3	Paul G. Monk.....	"	30 00
298	4	B. S. Skinner.....	"	66 66
301	5	T. K. Bruner.....	"	16 66
293	6	T. L. Blalock.....	"	75 00
292	7	F. B. Carpenter.....	"	91 66
299	8	J. L. Cunningham.....	"	50 00
303	9	William Whitaker.....	"	30 00
306	130	J. L. Cunningham, sect.....	"	5 88
305	1	Do.....	"	29 50
315	2	Mrs. A. E. Temple.....	"	20 00
291	3	B. W. Kilgore.....	2nd,	100 00
302	4	Alexander Rhodes.....	"	50 00
295	5	Frank E. Emry.....	"	125 00
304	6	John I. Ferrell.....	"	16 66
312	7	Levy Type Co.....	3rd,	5 50
313	8	The Fairbanks Co.....	"	2 55
311	9	Vermont Farm Machine Co.....	"	37 13
310	140	Herendeen Mfg. Co.....	"	15 00
88				
309	1	Syracuse Chilled Plow Co.....	3rd,	6 94
308	2	Wiard Plow Co.....	"	8 88
307	3	J. L. Cunningham, sect.....	4th,	6 21
297	4	W. F. Massey.....	5th,	83 33
314	5	Raleigh Gas Co.....	11th,	29 80
331	6	R. Hoe & Co.....	16th,	585 14
326	7	Syracuse Chilled Plow Co.....	"	9 00
334	8	Berry O. Kelly.....	"	23 43
319	9	Eimer & Amend.....	"	47 89
320	150	A. E. Foote, M. D.....	"	6 70
330	1	T. W. Wood & Sons.....	"	8 11
328	2	Morgan Envelope Co.....	"	15 75
318	3	J. L. Cunningham.....	17th,	50 00
317	4	A. F. Bowen.....	"	25 00
316	5	H. B. Battle.....	"	104 16
321	6	J. L. Cunningham, sec't'y.....	18th,	422 18
329	7	Raleigh Telephone Exchange.....	21st,	11 00
332	8	Frank E. Emry.....	"	90 00

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
323	9	Thos. H. Briggs & Sons.....	21st,	8 35
327	160	Jones & Powell.....	"	37 50
324	1	Raleigh Oil Mills & Fert. Co.....	"	5 58
322	2	Julius Lewis & Co.....	"	6 00
325	3	L. R. Wyatt.....	22nd,	11 95
333	4	J. L. Cunningham, sect.....	25th,	35
				<hr/> \$2,575 92

## April.

339	165	J. S. Meng.....	5th,	65 66
336	6	B. W. Kilgore.....	"	100 00
347	7	Alexander Rhodes.....	"	50 00
341	8	Gerald McCarthy.....	"	125 00
348	9	Wm. Whitaker.....	"	30 00
338	170	T. L. Blalock.....	"	75 00
344	1	J. L. Cunningham.....	"	50 00
345	2	Paul G. Monk.....	"	30 00
337	3	F. B. Carpenter.....	"	91 66
340	4	Frank E. Emry.....	"	125 00
354	5	J. L. Cunningham, sect.....	6th,	19 00
356	6	Do.....	"	40 02
363	7	Do.....	"	25 00
351	8	Eimer & Amend.....	"	25 27
352	9	Brandon Printing Co.....	"	51 50
353	180	A. B. Dick Co.....	"	5 40
357	1	Carolina Rice Milling Co.....	"	54 00
89				
365	2	The Weaver Mailing Env. & Box Co....	6th,	9 47
355	3	A. E. Foote, M. D.....	"	20 20
350	4	A. E. Temple.....	"	20 00
358	5	Thomas & Maxwell.....	"	3 00
349	6	John I. Ferrell.....	7th,	16 66
346	7	T. K. Bruner.....	"	16 66
364	8	J. L. Cunningham, sect.....	"	14 54
362	9	Frank E. Emry.....	8th,	30 00
343	190	B. S. Skinner.....	"	66 66
361	1	Ellington & Royster.....	"	7 12
335	2	H. B. Battle.....	"	104 16
366	3	W. B. Hutchings.....	9th,	21 95
344	4	W. F. Massey.....	11th,	83 33
360	5	Raleigh Gas Co.....	"	35 20
380	6	A. T. Bowen.....	20th,	25 00
359	7	A. G. Rhodes & Co.....	"	8 50
373	8	A. B. Seymour.....	"	7 50
382	9	Farmers' Seed Co.....	"	6 75
371	200	The Northern Distillery Co.....	"	20 70
370	1	Eimer & Amend.....	"	18 69
369	2	W. S. Powell & Co.....	"	3 92
368	3	Levy Type Co.....	"	6 50
367	4	C. G. Crawford.....	"	5 00
374	5	F. E. Emry.....	22nd,	80 00
376	6	L. R. Wyatt.....	"	7 50

Paid on Account of Support of the No. Co. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
375	7	Julius Lewis & Co.....	23rd,	4 97
378	8	Latta & Myatt.....	"	26 18
384	9	Edwards & Broughton.....	25th,	191 41
385	210	W. F. Massey.....	"	20 00
381	1	J. L. Cunningham, sec't'y.....	26th,	13 35
372	2	E. F. Wyatt.....	27th,	7 50
				<u>\$1,865 93</u>
May.				
397	213	T. K. Bruner.....	2nd,	16 69
395	4	J. L. Cunningham.....	"	50 00
396	5	Paul G. Monk.....	"	30 00
400	6	John I. Terrell.....	"	16 66
401	7	Wm. Whitaker.....	"	30 00
391	8	F. E. Emry.....	"	125 00
389	9	T. L. Blalock.....	"	75 00
388	220	F. B. Carpenter.....	"	91 66
387	1	B. W. Kilgore.....	"	100 00
386	2	H. B. Battle.....	"	208 33
390	3	J. S. Meng.....	"	66 66
399	4	Mrs. A. E. Temple.....	"	20 00
394	5	B. S. Skinner.....	3rd,	66 66
398	6	Alexander Rhodes.....	"	50 00
392	7	Gerald McCarthy.....	"	125 00
383	8	J. L. Cunningham.....	"	5 97
90				
393	9	W. F. Massey.....	5th,	83 33
411	230	F. E. Emry.....	17th,	55 00
379	1	J. L. Cunningham, sec't'y.....	24th,	60 00
414	2	Allen & Cram.....	"	21 45
407	3	F. E. Emry.....	"	50 00
415	4	John S. Keith.....	"	5 00
404	5	Hansom Bros.....	"	4 25
405	6	Levy Type Co.....	"	7 45
410	7	R. Hoe & Co.....	"	37 63
412	8	Ass. Am. Ag'l & Exp. Sta.....	"	10 00
417	9	The Globe Co.....	"	24 00
402	240	Baker & Adamson.....	"	11 32
403	1	A. H. Raffe & Co.....	"	67 75
416	2	Raleigh Oil Mills, &c.....	25th,	13 89
408	3	W. H. & R. S. Tucker & Co.....	"	12 75
421	4	A. F. Bowen.....	"	25 00
420	5	F. E. Emry.....	"	45 00
419	6	J. L. Cunningham.....	"	7 74
409	7	Caraleigh mills.....	26th,	15 00
413	8	R. M. Andrews.....	"	11 20
418	9	Thos. H. Briggs & Sons.....	30th,	15 20
				<u>\$1,660 56</u>

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
June.				
433	250	T. K. Bruner.....	1st,	16 66
431	1	J. L. Cunningham.....	"	50 00
436	2	Wm. Whitaker.....	"	30 00
432	3	Paul G. Monk.....	"	30 00
424	4	F. B. Carpenter.....	"	91 66
423	5	B. W. Kilgore.....	"	100 00
426	6	Jas. S. Meng.....	"	66 66
422	7	H. B. Battle.....	"	208 33
434	8	A. Rhodes.....	2nd,	50 00
427	9	F. E. Emry.....	"	125 00
438	260	Edwards & Broughton.....	"	280 41
429	1	W. F. Massey.....	"	83 33
428	2	Gerald McCarthy.....	3rd,	125 00
430	3	B. S. Skinner.....	"	66 66
425	4	T. L. Blalock.....	4th,	75 00
440	5	Edwards & Broughton..	24th,	134 64
406	6	Raleigh Gas Co.....	10,	39 40
439	7	H. B. Battle.....	13th,	400 00
437	8	John I. Ferrell.....	16th,	16 66
441	9	J. L. Cunningham.....	29th,	320 39
				<u>\$2,309 80</u>

91

July, 1892.

451	270	J. L. Cunningham.....	1st,	\$50 00
453	1	T. K. Bruner.....	"	16 74
442	2	H. B. Battle.....	"	208 39
443	3	B. W. Kilgore.....	"	100 00
455	4	Wm. Whitaker.....	"	30 00
454	5	Alexander Rhodes.....	"	50 00
447	6	F. E. Emry.....	"	125 00
7	7	J. L. Cunningham.....	2nd,	223 89
452	8	Paul G. Monk.....	"	30 00
446	9	J. S. Meng.....	"	66 72
444	280	F. B. Carpenter.....	"	91 74
445	1	T. L. Blalock.....	"	75 00
449	2	W. F. Massey.....	"	83 38
450	3	B. S. Skinner.....	"	66 72
6	4	R. Hoe & Co.....	5th,	36 44
5	5	A. H. Roffe & Co.....	"	6 00
4	6	Norman W. Henley.....	"	6 02
3	7	Schneider Bros.....	"	18 00
2	8	Emil Greiner.....	"	21 13
1	9	Eimer & Amend.....	"	14 63
448	290	Gerald McCarthy.....	"	125 00
456	291	John I. Ferrall.....	5th,	16 74
8	2	J. L. Cunningham.....	9th,	307 71
9	3	Raleigh Gas Co.....	11th,	44 60
377	4	Phil. H. Andrews.....	12th,	7 75
435	5	Mrs. A. E. Temple.....	18th,	20 00
34	6	J. L. Cunningham.....	23rd,	35 00
37	7	Do.....	"	40 00

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
35	8	J. L. Cunningham.....	23rd,	40 00
38	9	Do. ....	"	45 00
24	300	Do. ....	"	75 00
11	1	Do. ....	"	20 35
14	2	Do. ....	"	17 87
21	3	Do. ....	"	291 35
36	4	Do. ....	"	25 00
20	5	Do. ....	"	22 00
30	6	Do. ....	"	12 00
31	7	Do. ....	"	28 00
29	8	Jones, of Binghamton.....	"	8 73
18	9	A. H. Roffe & Co.....	"	6 00
19	310	The Casino Art Co. ....	"	2 09
10	1	Elmer & Amend .....	"	10 19
13	2	The Pomeroy Duplicator Co.....	"	3 50
23	3	W. F. Massey .....	25th,	30 00
17	4	J. L. Cunningham.....	"	60 00
16	5	A. F. Bowen .....	"	25 00
12	6	Alfred Williams & Co.....	26th,	2 75
25	7	The N. C. Cotton Oil Co.....	27th,	12 00
33	8	Williamson & Upchurch.....	"	5 82
26	9	Brewster Hdw. Co. ....	"	6 50
32	320	Raleigh Tel. Ex.....	"	48 00
92				
28	321	R. M. Andrews .....	27th,	5 45
27	2	L. R. Wyatt.....	29th,	31 10
15	3	The N. C. Car Co.....	"	21 60
42	4	T. L. Blalock .....	30th,	83 33
				<hr/> \$2,855 23 <hr/>

## August.

49	325	Paul G. Monk .....	1st,	30 00
44	6	F. E. Emry .....	"	125 00
53	7	Alexander Rhodes.....	"	50 00
47	8	B. S. Skinner.....	"	100 00
51	9	Wm. Whitaker .....	"	30 00
43	330	J. S. Meng .....	"	75 00
41	1	F. B. Carpenter.....	"	91 66
45	2	Gerald McCarthy.....	2nd,	125 00
50	3	T. K. Bruner.....	3rd,	16 66
48	4	J. L. Cunningham.....	4th,	50 00
22	5	F. E. Emry .....	5th,	100 00
52	6	John I. Ferrell.....	6th,	16 66
46	7	W. F. Massey.....	"	83 33
40	8	B. W. Kilgore .....	9th,	100 00
39	9	H. B. Battle.....	12th,	208 33
69	340	J. L. Cunningham.....	18th,	31 25
65	1	Do. ....	20th,	21 51
58	2	F. E. Emry.....	"	40 00
70	3	Raleigh Gas Co. ....	"	19 00
54	4	Elmer & Amend .....	"	10 40
534	5	Morgan Envelope Co.....	"	39 09



Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
66	6	D. H. Roe & Co. ....	20th,	9 08
67	7	R. Hoe & Co. ....	"	15 00
59	8	Crowder & Rand. ....	22nd,	18 03
61	9	Edwards & Broughton ....	"	114 74
60	350	Raleigh Oil Mill & F. Co. ....	23rd,	15 99
63	1	J. L. Cunningham. ....	"	50 00
62	2	Do. ....	"	47 90
68	3	Do. ....	"	25 67
71	4	Do. ....	"	24 65
56	5	Do. ....	"	5 80
64	6	Do. ....	24th,	70 35
55	7	A. F. Bowen. ....	"	22 12
57	8	F. E. Emry. ....	26th,	90 00
72	9	H. B. Battle, director ....	30th,	16 50
				<u>\$1,888 72</u>

## September.

73	360	H. B. Battle. ....	2nd,	208 33
82	1	J. L. Cunningham. ....	"	50
77	2	J. S. Meng. ....	"	75 00
78	3	F. E. Emry. ....	"	125 00
93				
74	364	B. W. Gilgore ....	2nd,	100 00
83	5	Paul G. Monk ....	"	30 00
88	6	W. F. Massey. ....	"	30 00
80	7	Do. ....	"	83 33
86	8	Wm. Whitaker. ....	"	30 00
87	9	John I. Ferrell. ....	3rd,	16 66
84	370	T. K. Bruner. ....	"	16 66
85	1	Alex. Rhodes. ....	"	50 00
81	2	B. S. Skinner. ....	"	100 00
79	3	Gerald McCarthy. ....	"	125 00
75	4	F. B. Carpenter. ....	8th,	91 66
76	5	T. L. Blalock. ....	10th,	83 33
89	6	Mrs. A. E. Temple. ....	13th,	20 00
108	7	T. L. Eberhardt. ....	17th,	140 00
99	8	A. F. Bowen. ....	19th,	45 00
91	9	H. B. Battle. ....	"	104 16
107	380	Royal & Borden. ....	"	6 00
111	1	B. W. Kilgore. ....	"	33 25
106	2	Thos. H. Briggs & Sons. ....	"	7 55
110	3	Raleigh Tel. Exchange. ....	"	11 00
102	4	F. E. Emry. ....	"	60 00
94	5	A. Williams & Co. ....	20th,	5 40
93	6	A. F. Bowen, sec. ....	21st,	21 50
96	7	Do. ....	"	18 00
97	8	Do. ....	"	20 00
98	9	Do. ....	"	16 80
105	390	A. B. Seymour. ....	22nd,	7 18
103	1	Geo. G. Kerr. ....	"	30 60
101	2	Va. Paper Co. ....	"	11 24
100	3	A. H. Rosse & Co. ....	"	6 25

Paid on Account of Support of the No. Ca. Experiment Station—Continued.

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
95	4	Levy Type Co. ....	22nd,	9 50
92	5	Eimer & Amend. ....	"	14 08
90	6	Richard King & Co. ....	"	22 25
104	7	R. J. Powell. ....	24th,	23 40
109	8	Raleigh Gas Co. ....	26th,	13 60
112	9	A. F. Bowen, sec. ....	29th,	12 55
				<u>\$1,874 28</u>

October, 1892.

129	400	A. F. Bowen, sec't'y .....	3rd,	40 00
122	1	Do. ....	"	35 00
128	2	John J. Ferrell .....	"	16 66
126	3	Alexander Rhodes .....	"	50 00
115	4	F. B. Carpenter .....	"	91 66
119	5	Gerald McCarthy .....	"	125 00
127	6	Wm. Whitaker .....	"	30 00
121	7	B. S. Skinner .....	"	169 00
118	8	F. E. Emry .....	"	125 00
117	9	J. S. Meng .....	"	75 00
114	410	B. W. Kilgore .....	"	100 00
125	1	T. K. Bruner .....	"	16 66
123	2	Miss Mamie Birdsong .....	"	17 50
94				
113	413	H. B. Battle .....	4th,	104 17
116	4	T. L. Blalock .....	"	83 33
120	5	W. F. Massey .....	"	83 33
124	6	C. D. Jones .....	"	20 00
130	7	H. B. Battle .....	15th,	75 00
				<u>\$1,188 31</u>

November, 1892.

143	418	Alexander Rhodes .....	2nd,	50 00
137	9	W. F. Massey .....	"	83 33
135	420	F. E. Emry .....	"	125 00
133	1	F. B. Carpenter .....	"	91 66
141	2	C. D. Jones .....	"	20 00
144	3	Wm. Whitaker .....	"	30 00
134	4	Jas. S. Meng .....	"	75 00
132	5	B. W. Kilgore .....	"	100 00
138	6	B. S. Skinner .....	3rd,	100 00
139	7	A. F. Bowen .....	"	35 00
131	8	H. B. Battle .....	"	133 33
142	9	T. K. Bruner .....	4th,	16 66
136	430	Gerald McCarthy .....	"	125 00
145	1	John I. Ferrell .....	5th,	16 66
140	2	Miss Mamie Nirdsong .....	7th,	17 50
				<u>\$1,019 14</u>

*Paid on Account of Support of the No. Ca. Experiment Station—Continued.*

No. of voucher.	No. in order of payment.	To whom paid.	Date of payment.	Amount.
150	433	A. F. Bowen, sec't'y .....	25th,	5 00
149	4	Do. ....	"	18 23
148	5	Do. ....	"	18 00
158	6	Do. ....	"	16 00
159	7	Do. ....	"	28 05
160	8	Do. ....	"	6 00
161	9	Do. ....	"	227 24
162	440	Do. ....	"	31 50
169	1	Do. ....	"	17 55
170	2	Do. ....	"	25 00
168	2	Raleigh Gas Co. ....	"	18 80
167	4	F. E. Emry. ....	"	30 00
163	5	Do. ....	"	85 00
152	6	Lulius Lewis. ....	"	28 40
153	7	J. C. S. Lumsden. ....	"	27 95
156	8	A. F. Bowen, sec. ....	"	18 40
151	9	The N. C. Car Co. ....	26th,	7 20
166	450	R. J. Powell. ....	29th,	23 40
165	1	Ellington, Royster & Co. ....	"	7 34
157	2	Eimer and Amend. ....	30th,	11 22
155	3	D. H. Roe & Co. ....	"	11 03
154	4	Wm. P. Walters & Son. ....	"	11 40
147	5	Peter Henderson & Co. ....	"	71 93
146	6	Bryan W. Halsted. ....	"	10 00
				<hr/> \$754 64

95 We, the undersigned committee, appointed by the General Assembly, have examined the entries with the vouchers of the experiment station of the North Carolina department of agriculture, and, finding them to be correct, have cancelled the same.

Raleigh, No. Ca., December, 1892.

W. D. TURNER, <i>Chm.</i> ,	} <i>Committee.</i>
ZEB. V. WALSER,	
J. J. LONG,	
W. H. McCLURE,	
J. Q. A. BRYAN,	

96 *Paid on Account of Support of Experiment Station, Department of Agriculture.*

No. of voucher.	No. in order of payment.	To whom paid.	Date of pay't.	Amount.
175	1	B. W. Kilgore .....	Dec. 1st, '92	\$100 00
177	2	Jas. S. Meng .....	"	75 00
178	3	R. E. Noble .....	"	66 66
174	4	H. B. Battle .....	"	208 33
187	5	Alex. Rhodes .....	"	50 00
176	6	F. B. Carpenter .....	"	91 66
179	7	F. E. Emry .....	"	125 00
188	8	Wm. Whitaker .....	"	30 00
183	9	A. F. Bowen .....	"	40 00
185	10	C. D. Jones .....	"	20 00
182	11	B. S. Skinner .....	"	100 00
180	12	Gerald McCarthy .....	2nd,	125 00
164	13	W. F. Massey .....	"	35 00
184	14	Miss Mamie Nirdsong .....	"	17 50
181	15	W. F. Massey .....	6th,	83 33
186	16	T. K. Bruner .....	"	16 66
173	17	A. F. Bowen .....	"	22 18
171	18	Do. ....	"	101 94
172	19	Do. ....	"	52 04
189	20	Jno. I. Terrell .....	8th,	16 66
190	21	A. F. Bowen .....	24th,	181 98
				<u>\$1,558 94</u>

January, 1893.

200	22	A. F. Bowen .....	10th,	50 00
204	23	Alexander Rhodes .....	"	50 00
193	24	F. P. Carpenter .....	"	91 66
203	25	T. K. Bruner .....	"	16 66
191	26	H. B. Battle .....	"	208 33
194	27	Jas. S. Meng .....	"	83 33
192	28	B. W. Kilgore .....	"	100 00
195	29	R. E. Noble .....	"	66 66
202	30	Chas. E. Jones .....	11th,	12 50
199	31	B. S. Skinner .....	"	100 00
197	32	Gerald McCarthy .....	"	125 00
196	33	F. E. Emry .....	12th,	125 00
206	34	Jno. I. Terrell .....	"	16 66
205	35	Wm. Whitaker .....	"	30 00
201	36	Miss Mamie Birdsong .....	13th,	17 50
198	37	W. F. Massey .....	16th,	83 33
214	38	A. F. Bowen .....	20th,	60 00
216	39	Thos. H. Briggs .....	"	17 84
218	40	Raleigh Gas Co .....	"	54 00
209	41	A. F. Bowen, sec't'y .....	"	60 00
213	42	Do. ....	"	66 00
217	43	Do. ....	"	18 00
208	44	Do. ....	"	253 87
215	45	Do. ....	"	258 70
207	46	Do. ....	"	294 75

*Paid on Account of Support of Experiment Station, etc.—Continued.*

No. of voucher.	No. in order of payment.	To whom paid.	Date of pay't.	Amount.
97				
210	47	Eimer & Amend .....	Jan. 21st, '93	50 13
212	48	John F. Diemer .....	"	18 82
211	49	The Pomeroy Duplicator Co. ....	"	7 40
				<u>\$2,336 14</u>

## February.

223	50	R. E. Noble .....	Feb. 1st, '93	66 66
220	51	B. W. Kilgore .....	"	100 00
235	52	A. F. Bowen, sec't'y .....	"	35 00
222	53	Jas. S. Meng .....	"	83 33
237	54	A. F. Bowen .....	"	167 40
219	55	H. B. Battle .....	"	208 33
231	56	T. K. Bruner .....	"	16 66
228	57	A. F. Bowen .....	"	50 00
233	58	Wm. Whitaker .....	"	30 00
221	59	F. B. Carpenter .....	"	91 66
236	60	F. E. Emry .....	2nd,	00 00
224	61	Do. ....	"	125 00
227	62	B. S. Skinner .....	"	100 00
232	63	Alex. Rhodes .....	"	50 00
230	64	Chas. D. Jones .....	"	12 50
226	65	W. F. Massey .....	3rd,	83 33
225	66	Gerald McCarthy .....	"	125 00
234	67	John I. Ferrell .....	8th,	16 66
229	68	Mamie Birdsong .....	"	17 50
248	69	F. P. Brown .....	18th,	20 00
249	70	A. F. Bowen, sec't'y .....	"	65 00
245	71	Do. ....	"	20 00
259	72	Raleigh Telephone Ex. ....	20th,	120 00
246	73	Raleigh Sta. Co. ....	"	27 30
256	74	A. F. Bowen, sec't'y .....	"	8 63
250	75	Do. ....	"	6 10
247	76	Do. ....	"	13 66
244	77	Do. ....	"	8 50
255	78	Do. ....	"	135 50
251	79	F. E. Emry .....	24th,	90 00
260	80	A. F. Bowen, sec't'y .....	27th,	402 84
252	81	F. E. Emry .....	"	48 00
258	82	A. H. Roffe & Co. ....	"	68 50
243	83	Eimer & Amend .....	"	40 83
242	84	Henry Heil Chemical Co. ....	"	30 72
241	85	Whitall, Tatum & Co. ....	"	5 78
240	86	Emil Greiner .....	"	6 80
239	87	Jas. L. Tobin .....	"	9 50
238	88	Baker & Adamson .....	"	23 64
253	89	N. C. Cotton Oil Co. ....	28th,	69 06
257	90	Raleigh Gas Co. ....	"	33 20

\$

*Paid on Account of Support of Experiment Station, etc.—Continued.*

No. of voucher.	No. in order of payment.	To whom paid.	Date of pay't.	Amount.
98		March, 1893.		
262	91	B. W. Kilgore.....	M'ch 1st, '93	100 00
254	92	R. E. Noble.....	"	66 66
261	93	H. B. Battle.....	"	208 33
274	94	Wm. Whitaker.....	"	30 00
269	95	B. S. Skinner.....	"	100 00
263	96	F. B. Carpenter.....	"	91 66
270	97	A. F. Bowen, sec't'y.....	"	50 00
271	98	Miss Mamie Birdsong.....	"	23 75
265	99	M. S. McDowell.....	2nd,	50 00
267	100	Gerald McCarthy.....	"	125 00
266	1	F. E. Emry.....	"	125 00
273	2	Alex. Rhodes.....	"	50 00
268	3	W. F. Massey.....	3rd,	83 33
275	4	Jno. I. Terrell.....	7th,	16 66
272	5	T. K. Bruner.....	8th,	16 66
254	6	The State Penitentiary.....	16th,	5 60
276	7	A. F. Bowen, sec't'y.....	20th,	19 52
278	8	Do.....	"	22 35
280	9	Do.....	"	8 00
292	110	Do.....	"	11 00
281	1	Do.....	"	86 58
294	2	Do.....	"	56 25
293	3	Do.....	"	149 94
287	4	Do.....	"	56 00
279	5	Do.....	"	62 00
290	6	T. L. Eberhardt.....	"	7 50
283	7	F. E. Emry.....	"	95 00
284	8	Do.....	"	35 00
286	9	T. W. Wood & Son.....	"	21 00
285	120	Henry Nungesser.....	"	21 73
277	1	Eimer & Amend.....	"	62 99
288	2	Bausch, Lomb Co.....	"	43 38
282	3	W. F. Massey.....	22nd,	30 00
291	4	Raleigh Gas Co.....	"	50 20
289	5	G. H. Glass.....	24th,	6 00
				1,987 09

## April, 1893.

299	126	M. S. McDowell.....	3rd,	70 00
302	7	W. F. Massey.....	"	83 33
305	8	Miss Mamie Birdsong.....	"	35 00
304	9	A. F. Bowen.....	"	50 00
301	130 00	Gerald McCarthy.....	"	125 00
308	1	Wm. Whitaker.....	"	30 00
297	2	F. B. Carpenter.....	"	91 66
300	3	F. E. Emry.....	"	125 00
307	4	Alex. Rhodes.....	"	50 00
303	5	B. S. Skinner.....	"	100 00
296	6	B. W. Kilgore.....	"	100 00
298	7	R. E. Noble.....	"	66 66
295	8	H. B. Battle.....	"	208 33
309	9	John I. Ferrell.....	4th,	16 66

*Paid on Account of Support of Experiment Station, etc.—Continued.*

No. of your list.	No. in order of payment.	To whom paid.	Date of pay't.	Amount.
99				
306	140	T. K. Bruner .....	Ap'l 4th, '93	16 66
321	1	Wiard Plow Co. ....	15th,	12 98
324	2	Syracuse Chilled Plow Co. ....	"	12 80
313	3	Baker & Adamson .....	"	36 03
311	4	Eimer & Amend. ....	"	22 42
310	5	Whitall, Tatum & Co. ....	"	26 57
325	6	W. F. Massey .....	17th,	12 50
315	7	A. F. Bowen, sec't'y .....	"	20 00
316	8	Do. ....	"	60 00
319	9	Edwards & Broughton .....	"	125 00
320	150	Ellington, Royster & Co. ....	18th,	31 91
318	1	A. F. Bowen, sec't'y .....	"	5 00
317	2	Do. ....	"	10 00
314	3	Do. ....	"	8 00
323	4	N. C. Cotton Oil Co. ....	19th,	24 69
326	5	H. B. Battle .....	"	104 16
322	6	Chas. F. Lumsden & Co. ....	20th,	55 31
312	7	Thomas S. Stevenson .....	24th,	31 25
				1,766 92

100

MAY 26TH, 1893.

Col. JOHN ROBINSON, being duly sworn, says:

Q. I believe you are commissioner of agriculture?

A. Yes, sir; I am so regarded and have been holding the office for 6 years.

Q. From what source is the revenue of the department now derived?

A. From a tonnage tax on fertilizers.

Q. Has it any other source of revenue?

A. None whatever.

Q. What was its source of revenue before the act of 1891?

A. A license tax on fertilizers.

Q. Do you know how many employees there are in the board of agriculture?

A. Yes, sir; the commissioner of agriculture, who gets a salary of \$1,850.00; the secretary, T. K. Bruner, \$1,300; the curator of the muzeum, T. C. Harris, \$900.00, and we have two constant inspectors, Geo. S. Terrell and P. C. Ennis, at salaries of \$900.00 each; that is all we have constantly employed. We employ other men as we need them for the purpose of inspecting fertilizers. We had last year three besides these two inspectors employed.

Q. Who were they and how long were they employed?



A. A Mr. Green, a Mr. Gill, and a Mr. Oates. They were employed at \$75 a month when they were at work.

Q. Give the approximate time they were employed during the present season.

A. About four months.

Q. I understand they are not now engaged?

A. No, sir.

Q. What other officers?

A. We have a servant, like other State officers, at \$25 a month.

Q. Do you know how many chemists are employed in the analysis of fertilizers?

A. I cannot say positively. I know the young men when I see them, but do not know how many there are.

Q. Have you a printed statement of the receipts and expenditures of your department for the last two fiscal years?

A. Yes, sir.

Q. Please produce one and let it be filed as an exhibit.

A. I file a report containing a statement for both years. All items in here dated before January 21st, 1891, are under the old license tax and not under the tonnage system. We publish these reports every year (Report 5, marked Exhibit D).

Q. You have doubtless from time to time inspected the books of the treasurer—the books we were examining on yesterday?

A. I have not, but the disbursements in Exhibit B and the receipts are taken from that book.

Q. Have you a similar report for the years 1887-'88 and 1889-'90—in fact, from the time you came into the office?

A. Yes, sir.

Q. Please furnish a copy of them as a part of your deposition.

(Objected to as immaterial.)

(By the JUDGE: Admitted.)

A. I now produce reports for 1887-'88 and 1889-'90, and they are filed and marked "Exhibits E, F, & G" respectively.

Q. Have you any means of ascertaining the number of tons of commercial fertilizers that have been sold in North Carolina during the present year?

A. No, sir; not accurately. I can approximate it.

Q. How do you arrive at it?

A. By the number of tags sold.

Q. What is the number of tags sold this year?

A. I cannot tell, but I can approximate. I can find out from the books, but it will take some time to do it. The number of tags has been larger than we anticipated on account of the sale of cotton seed by the farmers and their buying fertilizers instead. Cotton seed brought from 30 to 33c. per bushel, and those convenient to shipping points sold and bought fertilizers. As I said, the sale of tags has been larger on that account.

102 Q. How many tags, according to your best information, have been sold this year?

A. I can only tell you the amount of money we have received.

Q. That would indicate it exactly?

A. Yes, sir. I do not know the exact amount of money, but it is between \$32,000 and \$33,000. I have the receipts, but have not added them up.

(Objected to as immaterial.)

(By the JUDGE: Admitted.)

Q. If there were \$32,500 of money received and the tags have been used, that would indicate that 130,000 tons have been sold, would it not?

A. Yes, sir; there is an unusual number of brands on sale in the State—over 425. It increases every year. Before the tonnage system there were only 75 or 80 brands. Since then it has grown every year. Last year there were three hundred and ninety-six, and it has increased since.

Q. What is the proportion of the tons of fertilizers sold in the last half of the year as compared with the first half?

A. It is very much smaller. Our receipts for tags in the fall seldom amount to over \$2,000.00. Last year they were larger than usual on account of the large amount of fertilizers being used for wheat, and the receipts last fall were about \$2,500.00.

Q. Do you know what the receipts for sales were for May and June of last year?

A. Very little, if anything. We never sell anything in June. The treasurer's books showed you that on yesterday.

Q. Will you please turn to your treasurer's book and state whether there were any receipts from licenses during the months of December, 1890, and January, 1891—that is, unless you can state without reference to the books.

A. We keep no books in here. The books are in the treasurer's office.

Q. Can you refer to your receipts for the two months and answer the question?

A. The licenses were issued by the State treasurer upon my written order, and when I received the money I would turn  
103 it over to the treasurer without taking a receipt from him.

Q. What are Mr. Harris' duties?

A. He is curator of the muzeum.

Q. Have you any means of ascertaining what was the total number of tons of fertilizers sold in North Carolina during 1891?

A. Yes, sir; we sold more than we have in any other year since the tonnage system.

Q. Would it not be four times the number of dollars received?

A. Yes, sir.

Q. Do you make the same answer as to the year 1892?

A. Yes, sir.

Q. Have you any means of ascertaining the number of tons sold in 1890?

(Objection.)

A. No means at all.

(By the JUDGE: Admitted.)

Q. Have you any means of ascertaining the number previous to 1890?

(Objection.)

A. That will be guesswork. It was under the license system, and a man paid for selling a certain brand and he sold any number of tons he pleased.

Q. Can you approximate the number sold in 1890?

A. No, sir.

Q. In any preceeding year?

A. No, sir.

Q. I will be glad if you will file as an exhibit in the case one of the tags with a hook.

A. Yes, sir. I would be glad to state in addition that we were in correspondence with the department, in a number of the Southern States using the tonnage system, and we bought our tags very much cheaper than any other department in the South. I do not recollect any so positively as I do in regard to Georgia. We bought our tags at less than one-half what Georgia paid. Ours cost \$1.15 per thousand, and my recollection is Georgia paid \$2.50 per thousand. We have to change the tags every year. I also file tags for 1891 and 1892. (Tags marked "Exhibits H, I, and K.") We have to change the complexion of the tags as well as the date every year, so as to avoid being cheated; otherwise they would use the old tags, if we did not change  
104 them. The old tags have been known to be sold at greatly reduced prices. A fertilizer dealer in this State told me he was offered 10,000 old South Carolina tags in the city of Columbia at a very low price. They have the tag system in Virginia as well as in Georgia. They have been trying to adopt our system, but have not been able to do so. They use part tags and part tax at present. I am positive about this. In Georgia they use the tag system, and also in South Carolina.

Q. Do you know the fact that in Georgia the tonnage tax is 10c. per ton?

A. I do not. I know, in reading the law, the tax goes into the general fund, and the officers are paid from the general fund.

Q. What is your information about this being 10c. per ton?

A. I only know what I have heard. The officers of the department are paid from the general fund and not from the receipts of taxes on fertilizers. In South Carolina the whole goes into the college fund.

Q. Do you know the expenses of the inspection and analyses of fertilizers in Georgia as compared with North Carolina?

A. No, sir; they pay inspectors a larger sum in Georgia.

Q. Do you know how many analyses of fertilizers were made last year in this State?

A. I do not.

Q. Or this year?

A. I do not, positively.

Q. What bulletins are issued by the agricultural department?

A. Agricultural bulletins are issued each month. We issue them to publish the analyses of fertilizers. We show all of the brands registered as well as the analyses.

Q. Will you look at the papers I hand you, marked "L," "M," and "N," and state what they are?

105 A. Exhibit "L," dated August, 1891, is a bulletin of the agricultural department. That bulletin we have been issuing for many years. It contains the crop reports and a list of the manufacturing enterprises, &c. Exhibit "M," dated March, 1892—that contains the analysis of fertilizers and some other matter we fill up with to make it come out even, as, for instance, an article on thoroughbred sires and the State veterinarian needed and the situation of farmers, written by the commissioner, and an article on the castor-bean, an article on what it costs to grow cotton, and an article headed Farming that pays, and an article on country roads and on Diversity good economy.

Q. What is the number of pages of that bulletin?

A. Twelve.

Q. How many are taken up with the analyses of fertilizers?

A. Five; about that in the bulletin of August, 1891.

Q. I understand there is no fertilizer in this?

A. No, sir. The last paper I do not know anything about.

(Ex. "N" attached to affidavit of Col. J. W. Hinsdale on bill in this case.)

Q. These bulletins, I understand, were published at the expense of the North Carolina agricultural department?

A. Yes, sir.

Q. Please let me see the file of bulletins for the year 1893.

(Objection.)

(By the JUDGE: Admitted.)

Q. Have you any of this file?

— Yes, sir—that is, we have only issued two. We have one in the press now like the last one. It has nothing except the analyses of fertilizers and enough other matter to fill up vacant space. You notice the last one is almost entirely devoted to the analyses of fertilizers. Bulletins of March and February, 1893, marked "O" and "P," respectively.

Q. The bulletin, February, 1893, contains 20 pages?

A. Yes, sir.

Q. I ask you if only six pages of this bulletin are confined to the report of the analysis of fertilizers.

106 A. No, sir; we regard the registration as much necessary as the analysis. There are six pages devoted to the report of analyses and four to the registration of fertilizers.

Q. The report of registration contains the name and address of the manufacturer or general agent, the name of the brand, and the guarantee claimed as filed?

A. Yes, sir.

(Objection on the ground that the paper shows for itself.)  
(By the JUDGE: Admitted.)

Q. The report of the fertilizer analyses shows the chemical contents of the brand analyzed?

A. Yes, sir; it is so intended.

Q. There are ten pages upon miscellaneous matter?

A. Yes, sir.

Q. The bulletin of March, 1893, contain- five pages on report of registration of fertilizers?

A. Yes, sir; there are ten pages; all devoted to fertilizers except two.

Q. How many pages are devoted to the report of registration of fertilizers?

A. Five pages.

Q. How many pages are devoted to the analysis of fertilizers?

A. Three pages, and two to miscellaneous matter.

Q. Will you please produce and file all the bulletins for the year 1892?

A. I now produce all the bulletins published in the year 1892, and they are marked Exhibits Nos. "Q," "R," "S," "T," "U," "V," "W."

Q. Will you please look at the bulletin for April, 1892, and state how many pages are devoted to analyses of fertilizers?

(Objection on the ground that all of these bulletins speak for themselves.)

(By the JUDGE: Admitted.)

A. This bulletin, April, 1892, has five pages devoted to the analysis of fertilizers and several pages of the balance is devoted to upland rice culture. It is published for the benefit of the farmers; also an article on broom-corn is published for their benefit.

Q. There are sixteen pages in the bulletin?

A. Yes, sir.

107 Q. Please look at bulletin of May, 1882, which is eight pages long, and state how many pages are devoted to the report of analyses of fertilizers.

A. May is about the conclusion of the fertilizer year and there is only one page on that subject.

Q. Look at bulletin of July, 1892, which is eight pages long, and state how many pages are devoted to the report of the analyses of fertilizers.

A. The fertilizer year had ended entirely and there is none. I will also state that a large amount of the bulletin is devoted to the condition of the crops of the State.

Q. Please look at bulletin of August, 1892, which is 18 pages long, and state how many pages in it are devoted to the report of analyses of fertilizers.

A. The August bulletin has for several years been issued by me mainly to show the condition of the resources of the State. That is what this bulletin is intended for. There are no pages on

fertilizers. It gives an account of the resources of the State, and we have been very much complimented on it.

Q. Please examine bulletin, September, 1892, and state how many pages are devoted to the report of analyses of fertilizers?

— It is in the fall of the year. Part of one page is devoted to fall registrations.

Q. Is any part of this bulletin devoted to the report of analyses of fertilizers?

— No, sir; it is devoted to fall registration.

Q. Look at bulletin, February, 1892, which is twelve pages long, and say if it is not true that only six pages are devoted to the analyses of fertilizers.

A. Six pages are devoted to the analyses of fertilizers and almost the entire balance to the registration of fertilizers.

Q. There are two pages of miscellaneous matters?

108 A. Yes; nearly two pages.

Q. I ask you if these two pages have anything to do with the report of registration or analysis of fertilizers.

A. No, sir.

Q. Please produce the bulletins issued by the department in the year 1891.

A. I produce all we now have on hand, and they are marked "2," # 3, # 4, 5, 6, 7.

Q. Please look at bulletin # 2, containing six pages, and state whether it shows any report of analysis of fertilizers or of registration.

Answer. Yes; it contains two pages of registration, and the whole of it is devoted to fertilizers.

Q. There are no reports of analyses?

A. There are not. No reports had been made at that time.

Q. About four and a half pages of it are devoted to the publication of the act of 1891 in regard to the tonnage tax, is it not?

A. Three and a half pages are devoted to a copy of the act of 1891.

Q. Please look at bulletin of April, 1891, which contains 8 pages, and state how many pages in it are devoted to the registration of brands, and how many to analyses of fertilizers, and how many to other matters.

A. Three pages are devoted to analyses, three pages to registration, and two pages to other matters.

Q. I ask you if one of the pages which you say is devoted to analyses, if the larger part of it is not devoted to the art of milking.

A. Part of it is, but the principal is devoted to analyses.

Q. Please look at bulletin of June, 1891, containing ten pages, and state how many pages are devoted to the report of analyses of fertilizers and how many to the report of registrations.

A. There are two pages devoted to analyses and three to other fertilizer matters, and the balance is crop report.

109 Q. I ask you if the three pages which you say are devoted to fertilizer matters are not a discussion by Dr. Battle and

yourself of the controversy between the department and the Durham Fertilizer Company.

A. No, sir; it is a statement of facts of the conduct of the Durham Company in some of their transactions. It was an important fertilizer matter.

Q. Please look at bulletin of July, 1891, containing four pages, and state whether it is not a return of the crop reports.

A. It seems to be devoted entirely to crop reports.

Q. Look at bulletin of August, 1891, containing 14 pages, and state whether it contains any report of the registration or analyses of fertilizers.

A. This is our August bulletin. It is published after the crops are through with and gives a statement of the condition of the crops and of the industrial condition of the State. It contains no report of the registration or analyses of fertilizers, but does contain a half column on subject of fertilizers, in the way of advice to farmers on purchase of fertilizers.

Q. Are not six and a half pages devoted to giving a list of cotton and woolen mills and factories in North Carolina and one page and a half devoted to the registration of cattle, horses, etc.?

A. Six and a half pages are devoted to factories and one and a half pages to the introduction of pure blooded stock.

Q. Please look at bulletin of October, 1891, containing 8 pages, and state whether it contains any report of fertilizer analyses or registration.

A. There is very little of it devoted to fertilizers; part of one page only. The balance is devoted to miscellaneous subjects in which farmers are interested.

Q. Is any part of it devoted to the report of analyses of fertilizers?

— None to analyses of fertilizers, but it is devoted to an article on the laws governing the sale of fertilizers.

Q. Is any part of it devoted to the registration of fertilizers?

A. No, sir; part is devoted to the law governing the sale  
110 of fertilizers and entitled Instructions to Merchants and Others Dealing in Fertilizers. Each page of this bulletin contains two column-s.

Q. And this article is about one-half a column?

A. A little over one-half.

Q. Look at bulletin of November, 1891, containing twelve pages, and state whether any portion of it is devoted to the analysis of fertilizers or to the registration of fertilizers.

A. No, sir; there is nothing in this bulletin relative to either of these subjects.

Q. What does that bulletin contain?

A. A report of the exhibit at the Interstates exposition of 1891.

Q. Are not all of these reports written, published by and at the expense of the North Carolina department of agriculture, and paid for from the receipts of the tonnage tax?

A. It is paid for by the department of agriculture, and its only source of income is the tonnage tax.



Q. Are these the only publications which are or have been issued by the board of agriculture since January 21st, 1891?

A. Yes, sir. I would like to state that the board has tried very hard to conduct its business strictly in accordance with the ruling of the circuit court.

Q. How many members has the board of agriculture?

A. Ten.

Q. What is their pay?

A. The same *per diem*—that is, \$4.00—as members of the legislature and mileage for the time actually employed.

Q. How many meetings do they have?

A. Two a year—in December and in June.

Q. How long do these meetings generally hold?

— That depends on the amount of business. The June meeting generally occupies a whole week, and the December meeting not so long.

Q. Have you a tabulated statement of the expenses of the board of agriculture for the year 1892, showing how much the inspection of fertilizer- cost?

A. I gave a statement to you on yesterday. I have no tabulated statement.

Q. Where is Mr. Bruner now engaged?

A. In Chicago.

Q. Doing what?

A. At the exposition—at the World's Fair.

Q. Is he still secretary of the board of agriculture?

A. Yes, sir; he is so regarded.

Q. Does he still draw his salary as secretary of the of the board of agriculture?

A. I think so.

Q. How long has he been engaged in this World's Fair work?

A. He has been in Chicago part of the month.

Q. Has he been engaged in the work only a month?

A. He has been engaged for nearly a year.

Q. I ask you if the principal part of his services has not been in connection with the World's Fair exhibit?

A. Yes, sir; a large part of his services has been devoted to the World's Fair, and other officers in this office have done his work in the office while he has been engaged in the exposition work.

Q. Are any other officers or employees of the agricultural department engaged in a similar service?

A. No, sir.

Q. Are any of the officers or employees of the board of agriculture in whole or in part engaged in any other services than those appertaining to the enforcement of the fertilizer tax law?

A. None that I know of.

Q. Has the department of agriculture during the past two years been in the habit of issuing circulars to the farmers of the State for the purpose of ascertaining crop reports?

A. I issue a little crop card to them during the crop season  
112 similar to the to the one I now produce, marked Exhibit 8.

Q. That is paid for by the department of agriculture?

A. Yes, sir; it cost two cents to get it.

Q. Is that the only circular you issue?

A. We issue other circulars frequently in regard to the fertilizer laws. For instance, we had to issue the ruling of the attorney general in the matter. Here is one I issued to the fertilizer dealers.

Q. To whom was the Davidson circular issued?

A. To the farmers of the State.

Q. How much money is appropriated by the board of agriculture each year to the experiment station?

A. None. They appropriate a certain amount for the analysis of fertilizers.

Q. How much do they appropriate each year for the analysis of fertilizers?

A. That depends upon the amount of work done. The appropriation this year, I think, is \$8,000.

Q. What was the appropriation last year?

A. I cannot say.

Q. How was it in the vouchers?

A. I don't recollect.

Q. Is not this appropriation made to the experiment station?

A. No, sir.

Q. To whom is this money paid?

A. To Dr. Battle, director of the experiment station, for the analyses of fertilizers. He is also regarded as State chemist.

Q. I ask you if it has not been paid to D. W. Bain, treasurer of the fertilizer control station?

A. It may be so; that is not the way I understood it. Some of the vouchers may have been paid that way.

Q. Please look at voucher in the account of the fiscal year ending November 30th, 1891, entered on March 4th, 1891, D. W. Bain, treasurer fertilizer control station, \$1,000.00, and state what that *that* means.

A. I do not know what that means. I suppose it was made as a part payment. Mr. Bain, as State treasurer, was treasurer also of the hatch fund or experiment-station fund, and, I suppose, was paid as a part of the amount due for analysis.

Q. What is the hatch fund?

A. The fund appropriated by Congress to the experiment station.

Q. Please look at entry in the same account of January 20th, 1891, D. W. Bain, treasurer, fertilizer control station, \$7,000.00, and state what that means.

A. I suppose it was paid to Mr. Bain as treasurer of the experiment station for work done by chemists for analyses.

Q. Please look at entry of June 23rd, 1891, in the same account, on page 19 of the pamphlet, D. W. Bain, treasurer, balance, fiscal year 1891, to college, \$2,065.51, and state what that means.

A. That, I suppose, was for money we borrowed from the college after the change from the specific tax to the tonnage system. We had no fund and the college had some they did not need and they

loaned us a small amount, which we refunded. I suppose that is what it means.

Q. When was this money borrowed?

A. About January 1st, 1891, or in December, 1890.

Q. Was this money returned out of the proceeds of the tonnage tax?

A. Yes, sir; we used it in the conduct of the inspection of fertilizers and, of course, it was refunded out of the receipts from the sale of tags.

Q. Please look at entry of October 19th, 1891, John Robinson, commissioner, expenses exposition, \$300.00, and state what that means.

— We appropriated that amount of money to make an exhibit at the exposition here in 1891, and it was used for that purpose.

We had a great many things on hand and all that was required was to take them out and put them in place and take care of them and bring them back. The board was careful to get the opinion of the attorney general that it was a legitimate expense before they appropriated the amount.

Q. Have you a copy of the opinion of the attorney general upon that subject?

A. We have a copy of the opinion of the attorney general upon that general subject of expositions. I do not know that we have a copy of the opinion of the attorney general upon this particular subject.

Q. Is this the only money appropriated by the board of agriculture in this way?

A. Yes, sir.

Q. Was this money appropriated from the receipts of the tonnage tax upon fertilizers?

A. I suppose so. This is the only source of revenue we have.

Q. I observe that the following items of postage appear in the accounts for 1891-'92:

1891.	
January 26 .....	\$20 00
February 21st.....	25 00
April 17th.....	62 20
May 26th.....	27 00
May 29th.....	11 00
June 5th.....	29 80
June 25th.....	20 00
August 3rd.....	63 00
September 3rd.....	50 00
September 29th.....	25 00
November 23rd.....	50 00
December 11th.....	50 00
January 18th, '92.....	50 00
1892.	
February 9th.....	50 00
March 2d.....	25 00

March 30th.....	50 00
April 30th.....	50 00
May 9th.....	82 50
May 25th.....	11 00
June 1st.....	60 00
August 17th.....	60 00
October 3rd.....	40 00

Making a total between January 26th, '91, & Oct.

3rd, '92, of..... \$911 50

Was this postage used principally for mailing bulletins to the farmers?

A. It was used for a great many purposes. Our correspondence with fertilizer dealers is particularly heavy. We use it for that, and we frequently have to send tags by mail, and also other bulletins. It is not used principally for bulletins. I cannot say how much of it is used for bulletins.

Q. Please look in the account of 1892, of February 29th, D. W. Bain, treasurer, analytical work, \$3,000.00. What does that mean?

A. That means it was paid for analyses of fertilizers to him as treasurer for the experiment station.

Q. Look at item in same account, of April 25th, D. W. Bain, analytical work, \$2,000.00. What does that mean?

A. I do not know what it is for, but I suppose for analyses of fertilizers. He is treasurer of the experiment station.

Q. Look at item of same account, of July 1st, D. W. Bain, treasurer, analytical work. Do you know what that means?

— I suppose it was for analyses.

Q. Do you remember the fact that the Patapsco Guano  
116 Company, shortly after the institution of this suit, filed with you as commissioner of the board of agriculture a sample of its fertilizer with a label upon the same?

A. I do not remember. They may have done so. I cannot remember any specific one, there are so many. I do not remember whether they did or not.

#### Cross-examination :

Q. Is any of this tonnage tax appropriated by the board of agriculture to the agricultural college?

A. No, sir; not a cent. The board is very punctilious in that matter and conforms strictly to the ruling of the circuit court as they understand it.

Q. Has any of this tax been appropriated to the experiment station, except for the analyses of fertilizers?

A. No, sir; the board of agriculture makes this arrangement with the director of the experiment station to do the analyses of fertilizers for it at a reasonable sum. Inasmuch as it would cost us to get it done by outside chemists as much or more, it is more satisfactory to have it done at home by our own chemists.

Q. All of the brands of fertilizers have to be analyzed, do they not?

A. All that we can find. Sometimes we do not find all, but all we can find are analyzed. Sometimes there are only such a small quantity of some brands coming into the State we do not find them at the time they are shipped, and they will not be analyzed, but all we can find are analyzed.

Q. How many brands were sold in North Carolina in 1891 and how many in 1892?

A. Three hundred and fifty in 1891 and three hundred and ninety-six in 1892. This year it will be over four hundred.

Q. Please state the methods adopted for the inspection of fertilizers, inclusive of the analyses.

A. During the inspection season we keep four inspectors in the field at different points in the State, and I am kept informed  
117 of their movements. They draw these samples of fertilizers and put them in jars. We require them to draw samples from ten per cent. If they find one hundred sacks, they draw from ten different sacks; not less than that and frequently more. They put the samples in a jar, and this jar is sealed up and numbered. This jar is sent to us, and we send it to the chemist, and he only knows it by the number. These jars are sent in by express. They usually come in boxes containing from ten to fifteen jars. There would be too much risk in shipping them by freight. The inspectors frequently have to correspond with me by wire. If they find anything wrong, they must notify me at once by wire. The expenses of this correspondence are considerable.

Q. Can you get on with fewer expenses than you have?

A. No, sir; we cannot. We do not have enough this year. We have expended this year \$2,800.00 on inspection, and we have had to stop because the appropriation was exhausted. We had to stop inspection on that account. It is impossible to give an inspection in this State, with the great number of brands on the market, with less than \$3,500, and probably it would take more than that.

Q. By inspection you mean exclusive of analyses?

A. Yes, sir; I mean the gathering of the samples and seeing that the sacks are tagged, and that the brands correspond with the brands filed in this office. That is the duty of the inspector. It is also his duty to draw a sample and generally to see that the law is complied with.

— Is not the chief object of the bulletins issued to convey information to the consumers and dealers of fertilizers of matters connected with the fertilizers?

A. Yes, sir; that is the object of the bulletin. The object is to get the consumers, who are the farmers, informed as to the ingredients and the value of these fertilizers and especially that the  
118 farmers may be protected against fraud.

Q. In your answer to the bill you state that the appropriation of \$9,000 to the World's fair was a loan. Please explain that.

A. It was so regarded by us here as a loan, and not only by the officers of this department, but by the board of agriculture. I did

not know until I saw it on yesterday that the voucher conveying the money was made in different aspect. It was conveyed absolutely according to the voucher, but we regarded it as a loan to the World's fair, and we so stated. That answer was gotten up not by myself alone, but with the assistance of Mr. Bruner, the secretary, and Dr. Battle, and that was our opinion. I know it was regarded as a loan by several members of the board.

(This answer is objected to.)

(By the JUDGE: Disallowed. Exc.)

Q. Does Mr. Harris, the curator of the museum, work in this office or do any work connected with the fertilizer business of the department when required?

— Yes, sir; when required he does some work for this office in the inspection of fertilizers.

Q. Was the amount collected in 1891 from the tonnage tax unusually large?

A. We regarded it so. It was from the number of inspections.

Q. Would it be practicable to inspect and analyze 350 or 400 brands of fertilizers sold in this State with only one-fifth of the tonnage tax collected?

— No, sir; we could not begin to do it with one-fifth.

Cross-examination:

Q. Do you know how many analyses of fertilizers were made last year?

— No; I do not know positively.

Q. Do you know what it costs to make one analysis?

— I do not think I do. I never estimated the costs.

— Do you know what an analysis of fertilizer can be made for in the city of Baltimore?

— I only know from information I have received from others. I never had any made.

119 Q. Do you know that the analyses which are required to be made under the fertilizer law of North Carolina could be made for less than \$8,000?

— I know only from the amount of work done and from the information I got as to the cost in other places, and I do not think it could. It usually costs about \$25 for an analysis.

Q. How do you know it usually costs about \$25.00?

A. From information I receive from people who have had analyses made. I would like to state in explanation of what I say that four hundred brands at \$20 a brand is a very low price.

Q. Do you suppose for one moment you cannot make a contract to analyze four hundred brands for less than \$8,000?

A. Not in the way we do it here. There are two analyses made for every one. If it is not satisfactory, then other analyses are made. Frequently four or five are made of one brand.

Q. Do you know what the amount of chemicals used in an analysis costs?

A. I do not.

Q. Suppose I should show you a letter from Dr. F. P. Venable, in which he states that the chemicals used in making an analysis costs only \$1.50, would you be surprised?

A. I do not know anything about it.

Q. You say the analysis in North Carolina costs less than in any other State.

— I did not say so. I said we got it done at less expense and in a more satisfactory way than if we sent the samples off to have the analyses made.

— Then you did not have reference to its being done by other parties in Raleigh?

— There is no one in Raleigh who could do it.

Q. Your answer had reference to sending it off to another State?

A. Yes, sir.

Q. Do you know the fact that in the State of Georgia for the year 1892 the salaries of chemists amounted to only \$2,206 and for replenishing apparatus and for chemicals only \$1,265.76, and that there were 1,233 analyses made?

A. I do not know anything about it.

Q. Do you know that in the year 1890, in the State of Georgia, there was an appropriation of \$10,000 to the agricultural department; that the new fertilizer law of that State produces \$8,100, and that out of this the costs of carrying out the law was paid, amounting to \$3,034.12, leaving the amount of \$5,064.88, which was returned to the treasury?

— I do not know that. I only know that there is only one inspector in Virginia, and that one cannot do as much as should be done. The commissioner of agriculture of Virginia regards our system the best in existence.

(Objection, as not called for, and that it is a matter of opinion.)

(By the JUDGE: Disallowed. Exc.)

Q. Do I understand that your testimony in regard to the cost of analyses is not from your actual knowledge, but from what you have heard from others?

— It comes from my general information in regard to the matter, which is largely received from other persons.

— Have you had any actual experience in regard to the matter?

A. I have not.

Q. Is not your testimony upon this point based entirely upon hearsay?

A. I do not know that it is based upon hearsay, but upon information I have from others.

Q. I understand you have no personal knowledge of the matter yourself?

— I never had any analyses made.

(All of the testimony upon the cross-examination as to the cost of analyses of fertilizers is objected to as not based upon personal knowledge.)

(By the JUDGE: The exception is disallowed as not specific. It should point out the answer objected to.)



121 Redirect examination :

Q. Can you turn to the resolution of the board of agriculture by which the \$9,000 was appropriated to the World's fair?

A. I can.

Q. Will you please now read from the minutes of the board, which you now hold in your hands, the resolution I refer to?

A. "Resolved, That the board of agriculture appropriate, out of the fund belonging to said board and now remaining on hand after defraying the current expenses, an amount not to exceed the sum of \$9,000 to be used and employed under the direction of said board in making an exhibit of the resources of North Carolina at the World's fair to be held in the city of Chicago in the year 1893."

This was passed at the Dec. meeting of the board in 1891.

Q. I will ask you to read section 2199 of the Code and state whether this appropriation was not made by authority of that law.

A. It was made upon the opinion of the attorney general. The board asked him to file an opinion, which he did. They considered the matter themselves. I do not know whether the attorney general based his opinion upon that section or not.

Q. Was the opinion of the attorney general in writing?

A. Yes.

Q. Can you produce it?

— I think I can. It is as follows:

State of North Carolina, department of justice, office of the attorney general.

RALEIGH, *December 3, 1891.*

Hon. W. F. Green, chairman State board of agriculture, Raleigh, N. C.

SIR: I have received a copy of the resolution adopted by the State board of agriculture of this State in which my opinion is desired upon this question: "Whether this board has authority to

122 use the surplus of the revenue from fertilizers in 1891 for the purpose of making an exposition of the products of North Carolina at the World's Columbian exposition in 1893."

The Code, section 2199, provides: "The department shall as soon as practicable prepare a convenient hand book, with the necessary illustrative maps, which shall contain all necessary information as to the mines, minerals, forests, soils, climates, waters and water powers, fisheries, mountains, swamps, industries, and all such statistics as are best adapted to give proper information of the attractions and advantages which this State affords to immigrants, and shall make illustrative exposition- thereof whenever practicable at international exhibitions, and shall have authority to offer premiums for the encouragement of agricultural and mechanical pursuits and the raising of improved live stock in this State."

It will be at once noticed that the words employed in this statute

are apparently more than merely directory, and when the fact is considered that the department of agriculture was established not only for the benefit of that portion of our population already in agricultural and kindred occupations, but to make known to the people of other States and countries the vast resources and desirable conditions existing within this State, and thereby induce worthy men and women to make their homes and invest their capital in our borders, a very cogent reason is furnished for the use of such strong and peremptory words as were adopted by the General Assembly in this connection. The department "shall make illustrative expositions thereof (mines, minerals, industries, etc.) whenever practicable at international exhibitions."

The proposed Columbian exposition to be made in the city of Chicago in 1893 is such an "exhibition" as is contemplated by the section to which I have referred. Whether it is "practicable"

for the department to make an exhibit on that occasion is a question to be determined by the State board of agriculture.

If it shall find that it is practicable to do so, it will be its duty to take such methods as will be requisit- for that object.

The necessary expenses should be paid by the treasurer upon proper voucher and charged by him to such account as the law and rules of the treasury department not inconsistent therewith require.

The State board of agriculture, I conceive, has no authority to designate what specific fund or monies in the treasury shall be appropriated to this purpose. My opinion upon this point was communicated to the board in my letter of 22 Oct. last.

In my opinion, the duty imposed on the department to make the proposed exhibit, the board having first decided that it is practicable, there is by necessary implication an appropriation of the public moneys to defray the proper expenses.

Respectfully,

(Signed)

THEO. F. DAVIDSON,  
*Attorney General.*

The letter of October 22nd, referred to in this letter, reads as follows:

State of North Carolina, department of justice, office of the attorney general.

RALEIGH, Oct. 22nd, 1891.

Hon. W. F. Green, chairman State board of agriculture, Raleigh, N. C.

DEAR SIR: At the last meeting of your board a resolution was adopted asking my opinion upon the following inquiry:

124 "Does the act of January 21st, 1891, entitled An act to amend chapter one, volume II, of the Code permit the appropriation of any part of the funds raised thereby to any purpose other than that named in the first section of said act, viz., 'to de-

fray the expenses connected with the inspection of fertilizers and fertilizing materials of this State'?"

It is my opinion that the act mentioned simply substituted another scheme of taxation upon fertilizers for that which had formerly existed, but which had been declared unlawful by the Federal courts. It does not affect the powers of the board of agriculture in respect to their duties or functions imposed on it by this organic law and the statutes amendatory thereto. The act of 1891 unquestionably intended by the tax therein imposed to provide a fund from which the expenses incurred in the enforcement of the law for the inspection of fertilizers should be defrayed and appropriates it or so much as will be necessary to that object. The board of agriculture does not make the appropriation; the law makes it.

Section 2208 of the Code provides: "All monies arising from the tax on licenses, from fines and forfeitures, fees for registration and sale of lands, not herein otherwise provided for shall be paid into the State treasury and shall be kept on a separate account by the treasurer as a fund for the exclusive use and benefit of the department of agriculture."

There is no "tax on licenses," and while there is no similar provision in the act of 1891 in relation to the "charge" of twenty-five cents per ton therein imposed I nevertheless think that, considering the two enactments together, it may be reasonably *be* inferred the same disposition may be made of it; but, while the fund thus set apart cannot be used for any purpose other than the "benefit of the board of agriculture," it by no means follows that the  
 125 board of agriculture has an unlimited power of disposition over it. The board can only apply it to the purposes specifically directed by law. The board has no power to appropriate—using that term in the sense in which it is usually employed in legislation—this fund; it can only direct its applications to such objects and by such methods as the law may designate. The legislature alone has power over its appropriation.

Very truly yours,

(Signed)

THEO. F. DAVIDSON,  
*Attorney General.*

Q. I ask you, sir, if the section under which the \$300 was appropriated to the Interstates exposition was not section 2214 of the Code.

A. I do not know. We relied upon the opinion of the attorney general.

Q. I ask you if you got a written opinion from the attorney general in regard to the appropriation of \$300 or was it a verbal opinion.

A. It was simply verbal.

Q. Was there a resolution of the board authorizing the payment of the \$300?

A. No, sir; it was simply appropriated.

Q. Was there a minute made of it?

— I cannot say; I do not know.

Q. Look over the minutes of the meetings contained in the book which you hold in your hand and see if you can find any minute of it.

A. At the meeting of Oct. 19th, 1891, I find the following: "Whereas the board of agriculture, at its June meeting, in 1891, directed its officers to take charge of its exhibit at the Southern Interstates exposition, and whereas it appears that the sum of three hundred dollars or thereabouts is necessary in order to carry into effect the order of the said board, on motion, it is ordered that the sum of three hundred dollars be appropriated out of the funds of 126 the board in order to enable said officers to make said exhibit."

Q. When was the last time that Mr. Harris was called upon by the board of agriculture or its officers to do work in the department of agriculture?

A. I cannot tell when the last time was. We very frequently call upon him to do things for us.

Q. Has he been called upon to do anything during this year?

A. I do not recollect; I cannot say.

Q. Do you remember how many times he was called upon in 1892?

A. I do not.

Q. What was the character of the work performed by him on such occasions?

A. Various kinds of work. For instance, he made the cut for our tags.

Q. Do you remember any other work?

A. He is frequently called upon to do work by the board of agriculture. I do not know what the board calls upon him to do. He was appointed inspector by the board, but was afterwards relieved on account of his wife's health.

Q. Do you remember any other specific work besides inspection and the making of the wood cut that he has been called upon to do by the board?

A. I cannot say. I have not thought about it.

Q. Are you always present at the board meetings?

— Yes, sir.

Q. When was he last called upon to do inspection duty?

— I said I did not know.

Q. Has he been called upon in 1893 to do inspection duty?

— No.

Q. Do you remember whether he was called upon to do such duty in the year 1892?

A. I cannot say that he was.

Q. His chief employment is to take care of the museum?

— Yes.

JNO. ROBINSON.

Sworn & subscribed to before me this 26 day of May, 1893.

W. T. SMITH, *Com'r.*

127 Dr. H. B. BATTLE, being duly sworn, says:

Q. What is your occupation?

A. I am director of the experiment station.

Q. How many chemists have you engaged in the experiment station?

A. I ordinarily have four. At present I have only three, owing to a vacancy.

Q. Give me the names of the chemists you have employed.

A. B. W. Kilgore, B. F. Carpenter, J. S. Meng (who is now not with us), and R. E. Noble.

Q. Do I understand that these are with you permanently?

A. Yes, sir. We employ four permanently, but at present we have only three, owing to the vacancy in the place of Mr. Meng.

Q. What are their salaries and your own?

A. My salary is \$2,500; Mr. Kilgore gets \$1,200, Carpenter \$1,100, Meng \$1,000, and Noble \$900, making a total amount of salaries paid (\$6,700).

Q. What months of the year are you and your assistants most engaged in the analysis of fertilizers?

A. January, February, March, April, May, November, and December.

Q. And of these months which you have named in which are you least engaged?

A. May, November, and December. I will say that during large portions of the time we accept samples of fertilizers from farmers, and we are always ready to do that.

Q. Do you have much of that kind of work to do during these months?

A. No, sir; not during these months.

Q. I suppose the principal time you are occupied with the analysis of fertilizers is during the early part of the year, before the crops are planted?

A. That has been the time. That includes January, February, March, April, and a part of May.

Q. During these months—January, February, March, April, and a part of May—do you and your assistants have time to do  
128 any other analysis except that of fertilizers?

A. Occasionally; yes, sir.

Q. What kind of work?

A. Work connected with the experiment station.

Q. What is that?

A. It depends upon the work carried on in other divisions of the station—for instance, there may be some digestion work going on—that is, the investigation of the digestive constituents of fodders, cattle food, &c.

Q. Have any of these gentlemen during these months just mentioned any duties to perform in connection with the A. & M. college?

A. No, sir.

Q. Do they at any other time in the year have any duties to perform in connection with the college?

A. No, sir.

Q. What other kind of work is carried on in the experiment station?

A. Some time analyses as to the quality of milk, the proportional part of cream constituents of milk and butter, and there may be some investigations going on about insecticides, fungicides, &c. : and then, of course, we have other investigations going on, such as tobacco which require a considerable amount of chemical work. I am speaking of the whole work of the station; especially during the spring months we can do but little experimental work.

Q. Do you have any analyses of waters, mineral waters, minerals, &c.?

— We do some work in connection with mineral waters, but very little in connection with minerals. We formerly did that work, but have been dropping it off as much as possible. Most of the mineral work is mainly identification and does not require much time.

Q. What proportion of the time are you and your assistants engaged as compared with all other work in the analysis of fertilizers?

A. I cannot say.

Q. As much as one-third?

A. Fully, I think.

Q. Would that be a fair estimate or not?

— I would not like to say that without investigating further.

129 Q. Of course I am only asking for your best impression about it.

A. I should say at least one-third, and probably more; hardly as much as one-half.

Q. How many analyses do you and your assistants make in the course of a year upon an average?

A. About three hundred and fifty for the year 1892; that does not include, however, a good many duplicates made upon the same sample.

Q. Does it take as much time to make a duplicate analysis as it does to make an original?

A. It requires about the same work.

Q. Counting each duplicate analysis as an original, how many analyses do you make according to your best impression, in the course of a year, of fertilizers?

— Without going into details I should say about one-half of the total number more—that is, 175 added to the 350, making 525. There is another set of analyses which should also be considered, and that is in reference to the methods of analyses.

Q. Explain what you mean by that.

A. We have different methods of analytical work, and the Association of Official Chemists change the methods, and of course we

have to keep up with that change and compare it with the past work and do a great deal of co-operative work.

Q. That is, if I understand you, done in order that you may know that you are using the most approved methods in ascertaining the chemical ingredients of fertilizers?

— Yes, sir.

Q. How often does this board meet?

A. Once a year.

Q. Do they always make changes at every meeting?

A. That depends upon circumstances.

Q. When did they meet last?

— Last August.

Q. Did they make any changes then?

— Yes, sir.

Q. How much additional work did the changes they made then entail upon you and your assistants, and what work that you  
130 would not have been obliged to do in analyzing fertilizers?

A. The samples we work on in that connection are sent out by committees of the association and generally amount to 12 or 15. It requires very exact work and a number of determinations must be made on each one.

Q. What proportion in value of the chemicals furnished your station are used in the analysis of fertilizers for the department?

A. I cannot say.

Q. X. As much as one-half?

A. I cannot say. The work is of such a character that it is impossible to state. The value of the work in fertilizer analyses is in getting them ready for the farmers to use in their purchases, and we have to have a larger equipment than would otherwise be necessary. For instance, we are equipped to analyze 12 determinations, and that equipment is very expensive.

Q. Do you know what the chemicals for your department costs each year?

A. I cannot say without referring to my book.

Q. Please refer to your book and tell me.

A. The accounts embrace other things than chemicals. We spend \$600 per annum on chemicals and apparatus, but that does not include all the apparatus we use.

Q. Can you estimate the proportion of these chemicals which are used in the analyses of fertilizers?

— Three-fourths and probably more.

Q. Don't you use in your analyses a great deal of gas?

A. Yes, sir.

— Can you give me an estimate of your gas bill a year?

— About \$325 to \$350.

Q. What are your water rates?

A. We use our own water supply.

Q. What other element of expense in the analyses of fertilizers is there except the salary of the chemist, the cost of the chemicals and apparatus, and the cost of gas?



A. Clerical services and incidental expenses such as postage, &c.

131 Q. What is the cost of the clerical services for these months in analyzing fertilizers?

A. I will give you the cost of the clerical services for the whole year: One man at \$600, a special clerk merely for the heavy season at \$20.00 per month, and a stenographer at \$35.00 *dollars* per month.

Q. Is the clerical service engaged in the analysis of fertilizers as much as one-half of the time?

— About in the same proportion as the other force.

Q. Is that as much as one-half?

A. The clerical work goes along with the analytical work for the same time.

Q. Of course you keep a record of your analyses. Can you give me the number of analyses you made during each month of the year?

A. Not without my books.

Q. Please look over your books and give me the information.

A. I take 1892, from January to December, inclusive, and, excluding some samples I had in the previous estimate of cotton-seed products, which may not come directly under commercial fertilizers, the total is 316, as follows:

January.....	35
February.....	92
March.....	74
April.....	57
May.....	8
November.....	41
December.....	9

and this is to be increased by the committee samples I spoke of just now. This does not include the duplicates either. Duplicates were made in a large number of those samples—in fully one-half and probably more.

Q. What is the necessity of making duplicate analyses?

A. To be absolutely certain they are right.

Q. Do you know what the usual price is for making an analysis of commercial fertilizers in cities?

— It varies.

132 Q. I ask you for making such an analysis as we are in the habit of making for available phos. acid, ammonia, and potash.

A. The usual price is about twenty dollars for a single analysis.

Q. Some of the first-class chemists charge only fifteen, do they not?

A. I cannot tell about that.

Q. What do you estimate the actual cost of a single analysis is? I mean, in the first place, counting the amount of gas, the amount of chemicals, and the skilled labor employed; and, of course, in

making the estimate, I mean by chemists who receive the same compensation as you and your assistants.

A. If you include the time of the expert in making it, I should say that \$20.00 would be the average cost. The gas and materials are far less than that.

Q. I suppose one man could make 12 determinations at one time, each determination being of a single ingredient?

— Yes, sir.

Q. How many determinations are usually in an analysis upon fertilizers where you are seeking to ascertain the amount of available phos. acid and potash?

A. Seven.

Q. What several ingredients are determined by each of these processes?

A. (1) Moisture, (2) soluble phos. acid, (3) insoluble phos. acid, (4) total phos. acid, (5) potash, (6) nitrogen, and (7) ammonia. There are really only six, as the ammonia is calculated from the nitrogen.

Q. How long does it take to make these six analyses of a single brand of fertilizer, supposing you go from one operation to the other?

A. One man might make the six analyses in a day.

Q. What would the chemicals of one of these cost?

A. I have never investigated the matter.

Q. More than \$1.50?

A. I do not know.

Q. Please look at this letter from F. P. Venable and state how your estimate compares with his.

(Objection.)

A. I have no estimate similar to this at all. I suppose he has investigated the subject.

133 Q. His estimate of the costs of the chemicals in one of these analyses of fertilizers is \$1.50 for the chemicals, 25 cents for the wear and tear on the apparatus; the cost of 250 feet of gas, water rates, rent, interest on capital in fixed apparatus, and the time of the workman are all considered at charges made in the city laboratories. How does your estimate compare with his in the amount of the chemicals needed?

(The defendant objects to this question because there is no proof that Prof. Venable made any such statement.)

Q. Do you know Prof. Venable's handwriting?

(Defendant objects to this question because the letter handed witness, if genuine, is an unsworn statement.)

A. I do.

Q. Is that letter in his handwriting?

(Objection.)

A. I believe it to be, but do not know it to be.

(By the JUDGE: There is nothing in the controversy as to Venable letter. It was not proved, and no answer was given by witness based upon it.)

— Now I repeat my first question.

(Objection as stated above.)

A. I have never made any similar estimates.

Q. What amount of gas would you suppose is used in one of these analyses?

A. I cannot say.

Q. Would you suppose more than 250 feet?

A. I have no means of ascertaining.

Q. I now offer in evidence the report of the department of agriculture of Georgia, embracing the years 1891 and 1892, certified.

(Objection.)

(By the JUDGE: Admitted.)

Report filed, marked Exhibit 10.

Q. If it be true, as stated in the report which I have just offered in evidence, that the chemist in the State of Georgia made during the season of 1891-1892 101 analyses of acid phos., 19 of acid phos. with ammonia, 52 of acid phos. and potash, and 621 of acid phos., ammonia, and potash, complete fertilizers; 28 potash salts, and 50 of cotton-seed meals at a cost of \$3,246.15, how is it the same 134 cannot be done in North Carolina?

A. (Objected to on the ground that there is no evidence of the facts asserted in the question.)

By the JUDGE: Allowed.

A. I have no means of knowing that was the total cost. It is possible they analyze during the whole year and do not try to get the analyses ready for the farmers to use in purchasing.

Cross-examination:

Q. Can analyses of the fertilizers used in the State be made in proper time—that is, in time to furnish information to consumers—with a less force than yourself and your assistants?

A. They cannot. In fact we have been increasing the force for that purpose—in order to get it done rapidly—that it might be of greater service to the consumers.

Q. Can such analyses as you make be made with a less expensive laboratory and outfit than that in use?

A. No, sir; all the equipment has been found necessary by actual experience and is put in for the special purpose of rapidity and accuracy.

Q. Would it be practical to employ competent chemists to do the work of the agricultural department, in connection with the fertilizers, by engaging them only during the busy season and discharging them for the rest of the year?

A. That would be impracticable. Competent men could not be engaged under those conditions.

Q. Do you and your assistants do any work in getting out bulletins?

A. Yes; we prepare all the copy and revise the proof of the department bulletin, and, in addition, issue a fertilizer bulletin similar to the regular experiment-station bulletin. We issue seven editions of these during the year.

Q. Does the agricultural department pay for the printing  
135 of the bulletin you issue?

A. No, sir; the experiment station pays for the printing and all expenses connected with it.

Redirect examination:

Q. Have you any of the bulletins on hand?

A. Yes, sir.

Q. Please let me see the file for this and last year.

Q. As I understand it, the experiment station issues at stated times each year bulletins containing the names of the different brands of fertilizers, the address of the manufacturers or agents, and the chemical ingredients, the same—similar to that issued by the agricultural department?

A. It merely gives the names of the brands, the manufacturer, and the chemical analysis, with guaranty of brand.

Q. How often are these issued by the experiment station?

A. The first is issued early in January; then the biweekly editions come out as fertilizers are analyzed.

Q. How many copies of this do you usually get out?

A. About 14,000 of the January issue; the biweekly not so large an edition, from 1,000 to 1,700.

Q. To whom are they sent?

A. The January bulletin is sent to all names on the experiment-station list, generally to the farmers of the State, and the others generally to special applicants, principally among farmers.

Q. This bulletin would give to the farmers the same information and a little more than that obtained from the department bulletin, would it not?

A. No, sir; not as much. It does not include list of all the registered brands. It supplements the agricultural bulletin in disseminating these analyses.

Q. Do I understand from this answer that these bulletins contain analyses of fertilizers not to be found at all in the bulletin issued by the department?

136 —. No, sir; they are the same analyses.

Q. Are they not made in precisely the same form, and do they not give precisely the same information as the agricultural bulletin gives?

A. Some of them do. So far as the analyses are concerned, they are practically the same, but this bulletin does not undertake to give a list of the registered brands in the State, as the department bulletin gives. In addition, the analyses in the experiment-station

bulletin are not so complete as those presented in the department bulletin.

Q. In what particulars?

A. The biweekly editions merely give the available phos. acid, ammonia, and potash, but in the department bulletin as now printed the analyses include all determinations.

Q. I neglected to ask you this question: How does the number of analyses of fertilizers made by the experiment station in 1891 compare with 1892?

A. I cannot say positively, but a few less.

Q. How does 1890 compare with 1891?

A. That was before the tonnage charge came in; very much less. We did not receive as much fees as we do now for that work.

Q. To whom does the laboratory belong?

A. It is connected with the agricultural college.

Q. I wish now to put in evidence the act of North Carolina of 1891, chapter 9 and chapter 348.

Q. I observe that in your testimony and in the testimony of the other witnesses that the following terms are used: "Experiment station," "experiment and fertilizer control station," Hatch-fund experiment station, and "the experiment station." Do they all refer to and mean the same?

A. Yes, sir; the correct name is the agricultural experiment and fertilizer control station.

Q. State what it is.

A. It was created by the law of 1877 and connected with the department of agriculture, but it has since been transferred to the agricultural college, and now it is no part of the agricultural department.

Q. This is your construction of the law bearing upon the subject?

A. Yes, sir; as a matter of fact the officers of the board of agriculture have nothing to do with the management of the experiment station.

H. B. BATTLE.

Sworn & subscribed before me this 27th day of May, 1893.

W. T. SMITH, *Com'r.*

138 T. C. HARRIS, being duly sworn, says:

— What is your occupation?

A. I am curator of the muzeum.

Q. What are your duties as such?

— My duties are mainly in the muzeum. I am employed by the board and generally do what else I am requested.

Q. What was the last service you performed for the board?

A. You mean outside of the muzeum?

Q. Yes.

A. I think it was map work or diagram work.

Q. When was that done?

A. I finished the last of it a week or two ago.

Q. What map was it?

A. It was connected with the fishery industry.

Q. When did you commence that work?

A. I did it at odd times when not otherwise employed; I suppose several weeks.

Q. What other services have you performed outside of curator?

A. I do anything I am requested. I have done much diagram work in regard to farm buildings, surface draining, plats of ground showing the growth of crops under certain fertilizers, plans for silos, &c. As you will find, they are in the bulletins and reports; also cuts of the phosphate rocks of Sampson and Duplin counties. These services are a part of my work.

Q. Can you recall any other character of work you have done for them?

A. I have done so many kinds I do not know exactly. I made the block for the fertilizer tags.

Q. How many of them have you made?

A. I think I made the first series they used in 1891, when they first began the tag system. I also do any kind of office work I am called upon to do.

Q. Have you prepared the cuts for any subsequent years?

— No.

139 Q. What kind of office work do you do?

A. Any kind I am called upon to do—draining, mapping, &c.

Q. Your principal duties, however, are in connection with the museum?

A. Yes, sir.

THOS. C. HARRIS.

Sworn and subscribed before me this May 27, '93.

W. T. SMITH, *Com'r.*

140 S. W. BREWER, being duly sworn, says:

Q. What is your business?

— I am a commission merchant and furnish farmers' supplies.

Q. Do you deal in fertilizers?

— Yes, sir; to a limited extent.

Q. How long have you been dealing in fertilizers?

— About fifteen years or more.

Q. How did the volume of fertilizer business of last year compare with previous years?

A. I do not think it was as large as usual.

Q. How does the volume of business this year compare with that of last year?

A. I have made no effort to find out, so I cannot answer with accuracy. I have no information except what I gather from our own business, and from our business it is about the same. The difference has been very little. I have not taken the trouble to examine, but I should say the difference would be very little.

Q. How did the business of 1891 compare with that of previous years?

A. The business of 1891, as I remember it now, was fully up to the average, if not over the average, of previous years. Last year was the year we had a small business. The year 1891 was fully an average if not a little more than an average year.

Q. Were you dealing very extensively in fertilizers in 1891 and previous than you are now?

A. I do not know that we were. We make no special effort to sell guano. We sell mainly to those whom we sell other supplies to.

Q. From what source do you derive your knowledge and information in reference to the business of past years?

A. I only derive it from my individual business. As I have said, I have made no effort to find out anything about it and I can only speak from my own business.

S. W. BREWER.

Sworn and subscribed before me this 27th May, 1893.

W. T. SMITH, *Com'r.*

141 E. B. BARBEE, being duly sworn, says:

Q. Where do you live?

A. In Raleigh.

Q. What is your business?

— I am in the cotton business, principally. I have been and I am still, to a limited extent, in the grocery business.

Q. Are you engaged also in the fertilizer business?

A. Yes; I handle fertilizers.

Q. How long have you been in the fertilizer business?

A. I suppose about 17 years.

Q. As far as your knowledge and experience serves you, what was the volume of the fertilizer business in 1892 as compared with other years?

A. It was very much smaller; I should say about 40%.

Q. How did the fertilizer business of this year compare with that of last?

A. There is an increase of 40% or 50% this year.

Q. How does the business of this year compare with that of 1891?

A. It is about the same.

Q. Do you consider the business of this year and of 1891 as about the average?

A. I think so. The fertilizer sales have been increasing all the time. The volume of business for the years 1891 and 1893 is about the same as for previous years.

Cross-examination:

Q. Are you speaking of the business in Wake county or of the whole State?

A. I was giving my information of the business. I get my ideas of it to a certain extent from dealers, travelling men, etc.



Q. Is not your knowledge confined to the volume of business in Wake county and the neighboring counties, with the inhabitants of whom you do business?

— Of course that comes more under *by* supervision, but I hear a great deal from agents.

Q. Then your knowledge is principally based upon hearsay; not upon your personal knowledge or observation, but from what you hear from agents?

142 A. It is based upon my own knowledge in this section. In other sections of the State it is principally based upon what I hear from agents and people with whom I talk.

Redirect examination :

Q. When you speak of agents do you mean travelling agents of fertilizers?

— Yes; agents who represent different fertilizer brands.

E. B. BARBEE.

Sworn and subscribed before me this May 27th, 1893.

W. T. SMITH, *Com'r.*

143 And I certify that the depositions were taken, sworn to, and subscribed as herein set forth, and the exhibits offered are herewith filed and marked as herein set forth.

W. T. SMITH,  
*Commissioner.*

June 1st, 1893.

144 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

*Depositions for Plaintiff.*

Circuit Court, Fourth Circuit, at Raleigh.

The President of the United States of America to Weldon T. Smith,  
Greeting:

We, reposing especial trust and confidence in your integrity, do authorize and empower you to cause William H. Grafflin to appear before you at such time and place as you may appoint, and him on oath to examine touching all such matters and things as he shall know of and concerning a certain matter of controversy pending in our circuit court of the United States for the eastern district of North Carolina, wherein The Patapsco Guano Company *et als.* are plaintiffs and The Board of Agriculture of North Carolina and others are defendants, and his deposition, by you in writing so taken, the same to transmit, sealed with your seal, to the judges of our said circuit court of the United States, to be held for the eastern district of North Carolina, at Raleigh, on the first Monday in June next, to be read in evidence in behalf of the complainants in said controversy.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at Raleigh, in said district, the 26th day of May, 1893, and in the 117th year of the Independence of the United States.

[SEAL.]

N. J. RIDDICK, *Clerk.*

145 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, for Itself and all Other Non-Resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in and Make Themselves Parties to and Contribute to the Expenses of this Suit,  
*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and W. S. Primrose, W. F. Green, S. B. Alexander, H. E. Fries, N. B. Broughton, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, Elias Carr, and John Robinson, Commissioner.

To the defendants:

You are hereby notified that on Monday, the 29th day of May, 1893, at 10 o'clock a. m., at the office of the agricultural department, in Raleigh, N. C., before W. T. Smith, commissioner, the plaintiff will proceed to take the deposition of William H. Graffin, a witness for plaintiffs, to be read in evidence at the hearing of this suit, and you are hereby notified that you may, if you see fit, attend before the said W. T. Smith, commissioner, at the time and place aforesaid, and cross-examine said witness if you desire to do so.

Very respectfully,

JOHN W. HINSDALE,

*Attorney for Plaintiffs.*

Raleigh, N. C., May 26th, 1893.

Service accepted May 26th, 1893.

BATTLE & MORDECAI,

*Sol. for Def'ts.*

146 UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

In the Circuit Court. In Equity.

PATAPSCO GUANO CO. }

*vs.*

BOARD OF AGRICULTURE OF NORTH CAROLINA. }

Pursuant to the annexed commission to me directed I, W. T. Smith, commissioner, under the authority hereof, on the 29th day of May, 1893, in the office of John Robinson, commissioner of agriculture of North Carolina, in the city of Raleigh, in the county of

Wake and State of North Carolina, both parties being present by their counsel, to wit, the Patapsco Guano Company, by John W. Hinsdale, att'y, and the Board of Agriculture of North Carolina, by S. F. Mordecai, att'y, proceeded to take the deposition of William H. Grafflin, who, being first duly sworn to speak the truth, the whole truth, and nothing but the truth between the parties named in the said commission, deposes and says as follows:

147

MAY 29TH, 1893.

W. H. GRAFFLIN, being duly sworn, says:

Q. Where do you live?

— In Baltimore.

Q. What is your occupation?

A. I am treasurer of the Patapsco Guano Company.

Q. How long have you been connected with the Patapsco Guano Company?

A. Since 1869.

Q. How long has the Patapsco Guano Company been doing a business in fertilizers in the State of North Carolina?

A. Since 1866.

Q. What for the last four or five years has been the average sales of the Patapsco Guano Company—of its fertilizers in North Carolina?

A. The average was disturbed very much last year. Omitting that, the average will probably be in the neighborhood of 3,000 tons per annum. Last year the sales fell to 1,128 tons. This year, however, we exceed 2,000 tons.

Q. What would be the profits to your company upon its average business during a year in North Carolina?

A. The contention here is on the business of 1892. The profits for that year were \$3.50 per ton.

Q. Is \$3.50 about the average profit?

A. No; for previous years it was larger.

Q. What effort has it required on the part of your company to build up the business?

A. It has required considerable travelling, soliciting, advertising, and correspondence.

Q. If, by a refusal on the part of the guano company to pay the tonnage tax which was exacted by the laws of 1891, the business of the company should be broken up in North Carolina and the company compelled to retire from the State, what would be the loss or damage to the company?

A. The loss or damage would be the entire profits on that amount of business, which would largely exceed \$2,000.

Q. What amount of capital has the company invested in the plant, machinery, etc., used in the manufacture of fertilizers?

A. We have an excess of \$250,000 at present invested.

Q. What would be the effect of the enforcement of this law upon your business in North Carolina if you refuse to pay the fertilizer tax and were not protected by the courts?

(Objected to as being a question of law.)

A. In my opinion, it would stop the sale of the goods entirely, as we could not get any one to buy them.

Q. Shortly before the institution of this suit what did your company do with reference to forwarding to the commissioner of agriculture, in Raleigh, a sample of the fertilizer?

A. All the requirements of the law were complied with. The sample was sent and a statement of the guaranteed analysis, which, I believe, is everything required except the application of the tag and the payment of the tonnage tax.

Q. Was this done before making any shipment of fertilizer into the State?

A. Yes, sir.

Q. Was the sample sent a true and faithful sample?

A. Yes, sir; it was taken from the bulk of the goods.

Q. Was the sample accompanied by a label, stating the name, location, and address of the manufacturer and of the chemical constituents of the fertilizer?

(Objection on the ground that the statement is the best evidence of what was sent.)

A. Yes, sir.

Q. We now call upon Col. Robinson to produce the sample that was sent.

(Objection upon the ground that Col. Robinson is not upon the witness stand.)

Q. I will now ask you, Mr. Grafflin, if you have not this moment heard Col. Robinson say he has not the sample with the label sent in 1892.

A. I so understood him.

Q. What has every bag which has been shipped by you into the State had stamped or labelled upon it in the way of analysis?

A. Guarantees of ammonia,  $2\frac{1}{2}\%$ ; available phosphoric acid,  $9\frac{1}{4}\%$ ; potash,  $1\frac{1}{2}\%$ .

Q. What did each bag have on it with reference to the name and brand of the fertilizer and the name of the fertilizer manufacturer?

A. The brand was Patapsco guano, manufactured by the Patapsco Guano Company, Baltimore; weight stated to be 300 pounds. I think, also, it stated "Registered in Virginia and North Carolina."

Q. Just before the bill in this suit was filed who was your agent for the sale of fertilizer in the city of Raleigh?

A. The firm of M. T. Norris & Bro.

Q. What effect did your declining to pay the tonnage tax have upon the action of this agent?

A. He declined to handle the goods.

Q. Do you know anything of the railroads in the city of Raleigh about this time in refusing to make deliveries of guano because not tagged?

A. I was so informed.

(Objection.)

By the JUDGE: Disallowed.

Q. You have no personal knowledge upon this point?

A. Only through correspondence.

Q. Did you have any correspondence with the commissioner of agriculture upon it?

A. No, sir.

Q. From your general knowledge of the fertilizer business how does the amount of guano sold in Virginia in 1891 and 1892 compare with the aggregate amount sold in North Carolina—more or less?

(Objection.)

By the JUDGE: Disallowed.

A. There is no means of telling about the sales in Virginia; there are no statistics.

Q. I ask you this question with reference to the State of  
150 Georgia.

(Objection.)

By the JUDGE: Disallowed. No qualification as expert.

A. The sales in Georgia are considerably larger than in North Carolina.

Q. What tax do you pay in Georgia?

(Objection.)

By the JUDGE: Allowed.

A. Ten cents per ton.

Q. That, I understand, is tax your company actually paid in Georgia?

(Objection.)

By the JUDGE: Allowed.

— Yes, sir.

Q. Is that the only tax?

(Objection.)

A. Yes, sir.

Q. Do you know what is the cost of the analysis and inspection of fertilizers in Georgia for 1892?

(Objection.)

By the JUDGE: Disallowed.

— I only know from the reports of the commissioner of agriculture of Georgia, which show that the tax of 10c. pays all expenses and leaves a surplus.

Q. Do you know what was the cost of inspection and analysis in Virginia?

(Objection.)

By the JUDGE: Disallowed.

A. I only know from the statement made in the report of the commissioner of agriculture of that State. He has set them out in detail. I have footed them up in 1892 to be within \$5,000. There is an appropriation of \$5,000 for this work.

Q. How many chemists and assistant chemists are engaged in this analysis work in the State of Virginia?

(Objection.) (Disallowed.)

— In the State of Virginia I see in the report of expenses the name of the chief chemist, Mr. Gaines, and the name of two other gentlemen, but one of them occurs only once, so I imagine he is only employed temporarily.

Q. Can you state accurately the amount of the salary of the employees engaged in the analysis of fertilizers in the State of Virginia?

(Objection.) (Disallowed.)

Question by COMMISSIONER: Do you know these matters of your own knowledge or are you answering from hearsay?

A. In this instance I am testifying from a printed report, 151 which states that the salaries of employees of the fertilizer fund sums up \$3,112.50.

Q. What was the expenses for laboratory for that year?

(Objection.)

A. \$512.45.

Q. And for other expenses?

A. \$123.11.

Q. For publications?

A. \$21.86.

Q. For printing and stationery?

A. \$198.76.

Q. For rent?

A. \$300.00.

Q. I will ask you what were the expenses for inspection?

A. \$197.16.

(Objection to all of the above questions and answers on the ground that they are immaterial and that the witness has testified purely from hearsay.)

By the JUDGE: Not expert. Objection not considered.

WM. H. GRAFFLIN.

Sworn & subscribed before me this 29th day of May, 1893.

W. T. SMITH, Com'r.

152 Col. HINSDALE, att'y for plaintiff: I offer in evidence the report of the commissioner of agriculture dated Sept. 30th, 1890, and appearing on pages 8 and 9 of the report of the State board of agriculture of Virginia for 1890. Ex. No. "11."

I offer now the report of the commissioner of agriculture of the State of Virginia dated Sept. 28th, 1891, and contained on

pages 9 and 10 of the report of the State board of agriculture of Virginia for 1891. Ex. No. "12."

I offer now the report of the State board of agriculture of Virginia, on pages 3 and 4 of the printed report of the State board of agriculture of Virginia, and also the report of expenditures of the agricultural department by the commissioner from 1st October, 1891, to Sept. 30th, 1892, on pages from 15 to 24, inclusive, of the same printed report. Ex. No. "13."

All these reports are objected to by the defendant as immaterial and irrelevant and not proper proof.

(By the JUDGE: Allow-.)

The plaintiff offers the general law as to inspection, analyses, and sale of fertilizers, No. 721, entitled "An act to amend and consolidate the laws governing the inspection, analyses, and sale of commercial fertilizers, chemicals, and cotton-seed meals in the State of Georgia and to repeal all other laws and parts of laws in conflict therewith, and for other purposes," contained in the official volume of the laws of the State of Georgia.

On the title-page the book produced reads as follows: Acts and resolutions of the General Assembly of the State of Georgia, 1890 and 1891. Volume I. Compiled and published by authority. Atlanta, Georgia. George W. Harrison, State printer. Franklin publishing house, 1891. On the second page: George W. Harrison, State printer, Atlanta, Georgia. The following is a copy  
153 of the law as taken from this volume of the laws which is deposited in the supreme court library:

154 Georgia Laws, 1890-1891, vol. I.

*General Law as to Inspection, Analysis, and Sale of Fertilizers.*

No. 721.

An act to amend and consolidate the laws governing the inspection, analysis, and sale of commercial fertilizers, chemicals, and cotton-seed meal in the State of Georgia, and to repeal all other laws and parts of laws in conflict therewith, and for other purposes.

SECTION I. Be it enacted by the General Assembly of the State of Georgia, That all manufacturers of, or dealers in, commercial fertilizers, or chemicals or cotton-seed meal to be used in manufacturing the same, who may desire to sell, or offer for sale, in the State of Georgia, such fertilizers, chemicals or cotton-seed meal, shall first file with the commissioner of agriculture of the State of Georgia the name of each brand of fertilizers or chemicals which he or they may desire to sell in said State, either by themselves or their agents, together with the name of the manufacturer, the place where manufactured, and also the guaranteed analysis thereof, and if the same fertilizer is sold under different names, said facts shall be so stated, and the different brands that are identical shall be named.



SEC. II. Be it further enacted, That all fertilizers, or chemicals for manufacturing the same, and all cotton-seed meal, offered for sale or distribution in this State, shall have branded upon or attached to each bag, barrel or package the guaranteed analysis thereof, showing the percentage of valuable elements or ingredients such fertilizer or chemical contains, embracing the following determinations:

155 Moisture, at 212 degrees Fahrenheit, — per cent.

Insoluble phosphoric acid, — per cent.

Available phosphoric acid, — per cent.

Ammonia, actual and potential, — per cent.

Potash ( $K_2O$ ), — per cent.

The analysis so placed upon or attached to any fertilizer or chemical shall be a guarantee by the manufacturer, agent or person offering the same for sale that it contains substantially the ingredients indicated thereby, in the percentages named therein, and said guarantee shall be binding on said manufacturer, agent or dealer, and may be pleaded in any action or suit at law to show total or partial failure of consideration in the contract for the sale of said fertilizer, chemical or cotton-seed meal.

SEC. III. Be it further enacted, That it shall be the duty of the commissioner of agriculture to forbid the sale of either of the following: Any acid phosphate which contains less than ten per centum of available phosphoric acid; any acid phosphate with potash which contains a sum total of less than ten per centum of available phosphoric acid and potash when the per cents. of the two are added together; any acid phosphate with ammonia which contains a sum total of less than ten per centum of available phosphoric acid and ammonia when the per cents. of the two are added together; any acid phosphate with ammonia and potash which contains a sum total of less than ten per centum of available phosphoric acid, ammonia and potash when the per cents. of the three are added together; that no brands shall be sold as ammoniated superphosphates unless said brands contain two per cent. or more of ammonia; and also to forbid the sale of all cotton-seed meal

156 which is shown by official analysis to contain less than seven and one-half per centum of ammonia. Nothing in this act shall be construed to nullify any of the requirements of an act entitled An act to require the inspection and analysis of cotton-seed meal.

SEC. IV. Be it further enacted, That all persons or firms who may desire or intend to sell fertilizers, chemicals or cotton-seed meal in this State shall forward to the commissioner of agriculture a printed or plainly written request for the tags therefor, stating the name of the brand, the name of the manufacturer, the place where manufactured, the number of tons of each brand and number of tags required, and the person or persons to whom the same is consigned, the guaranteed analysis, also the number of pounds contained in each bag, barrel or package in which said fertilizer, chemical or cotton-seed meal is put up; and shall, at the time of said request for tags, forward directly to the commissioner of agriculture the

sum of ten cents per ton as an inspection fee; whereupon, it shall be the duty of the commissioner of agriculture to issue tags to parties so applying, who shall attach a tag to each bag, barrel or package thereof, which, when so attached to said bags, barrels or packages, shall be *prima facie* evidence that the seller has complied with the requirements of this act. Any tags left in the possession of the manufacturers or dealers at the end of a season shall not be used for another season, nor shall they be redeemable by the department of agriculture.

SEC. V. Be it further enacted, That it shall not be lawful for any person, firm or corporation, either by themselves or their agents, to sell or offer for sale, in this State, any fertilizer chemical or cotton-seed meal without first registering the same with the commissioner of agriculture, as required by this act, and the fact that the purchaser waives the inspection and analysis thereof, shall be  
157 no protection to said party so selling or offering the same for sale.

SEC. VI. Be it further enacted, That the commissioner of agriculture shall appoint twelve inspectors of fertilizers or so many inspectors as in said commissioner's judgment may be necessary who shall hold their offices for such terms as said commissioner of agriculture shall in his judgment think best for carrying out the provisions of this act. The greatest compensation that any one inspector of fertilizers shall receive shall be at the rate of one hundred dollars per month, and his actual expenses, while in the discharge of his duty as such inspector. It shall be their duty to inspect all fertilizers, chemicals or cotton-seed meal that may be found at any point within the limits of this State, and to go to any point when so directed by the commissioner of agriculture, and shall see that all fertilizers, chemicals or cotton-seed meal are properly tagged.

SEC. VII. Be it further enacted, That each inspector of fertilizers shall be provided with bottles in which to place the samples of fertilizers, chemicals or cotton-seed meal drawn by him, and shall also be provided with leaden tags, numbered in duplicate from one upward, and it shall be the duty of each inspector of fertilizers to draw a sample of all fertilizers, chemicals and cotton-seed meal that he may be requested to inspect, or that he may find uninspected, and he shall fill two sample bottle- with each brand, and place one leaden tag of the same number in each sample bottle, and shall write plainly on a label on said bottles the number corresponding to the number on said leaden tags in said bottles, and shall also write on the label on one of said bottles, the name of the fertilizer, chemical or cotton-seed meal inspected, the name of the manufacturer, the place where manufactured, the place where in-  
158 spected, the date of the inspection, and the name of the inspector, and shall send or cause to be sent to the commissioner of agriculture the samples so drawn by him annexed to a full report of said inspection, written on the form prescribed by said commissioner of agriculture, which report must be numbered to correspond with the number on said sample bottles, and number

on the leaden tags placed therein; and it shall also be the duty of said inspectors of fertilizers to keep a complete record of all inspections made by them on forms prescribed by said commissioner of agriculture. Before entering upon the discharge of their duties they shall take and subscribe, before some officer authorized to administer the same, an oath faithfully to discharge all the duties which may be required of them in pursuance of this act.

SEC. VIII. Be it further enacted, That the commissioner of agriculture shall have the authority to establish such rules and regulations in regard to the inspection, analysis and sale of fertilizers, chemicals and cotton-seed meal, not inconsistent with the provisions of this act, as in his judgment will best carry out the requirements thereof.

SEC. IX. Be it further enacted, That it shall be the duty of the commissioner of agriculture to keep a correct account of all money received from the inspection of fertilizers, and to pay the same into the treasury, after paying out of said sum the expenses and salaries of the inspectors, and for the tags and bottles used in making such inspections.

SEC. X. Be it further enacted, That all contracts for the sale of fertilizers or chemicals in the State of Georgia, made in any other manner than as required by this act, shall be absolutely void; provided, that nothing in this act shall be construed to restrict or void sales of acid phosphate, kainit or other fertilizer material in bulk to each other by importers, manufacturers or manipulators, who mix fertilizer material for sale.

SEC. XI. Be it further enacted, That any person selling or offering for sale any fertilizers or chemicals, without first having complied with the provisions of this act, shall be guilty of a misdemeanor, and on conviction thereof shall be punished as prescribed in section 4310 of the Code of Georgia.

SEC. XII. Be it further enacted, That all laws and parts of laws in conflict with this act be, and the same are, hereby repealed.

Approved October 19, 1891.

160 The defendant objects to this evidence as irrelevant and immaterial and not properly proven.

By the JUDGE: Allowed.

\* The plaintiff reserves the right to produce the original volume upon the hearing of this case.

The defendant does not consent to this.

The plaintiff now offers chapter 81, under title 25, of the printed Code of Virginia of 1887, contained in said volume on pages 463, 464, and 465.

The title page of the volume produced reads as follows:

"The Code of Virginia, with the Declaration of Independence and the Constitution of the United States and the constitution of Virginia. Published pursuant to the act of the General Assembly

\* No point was made on the argument as to the manner of authentication of the reports, &c., introduced in evidence.

of Virginia. Approved May 21, 1887. A. R. Micou, superintendent of public printing. Seal of Virginia: *Sic semper tyrannis*. Richmond: Printed by James E. Good. 1887."

On the second page: "Copyrighted for the Commonwealth of Virginia by Henry W. Flournoy, secretary of the Commonwealth."

The following is a copy of the law:

161

Code of Virginia, 1887.

Ch. 81.

Title 25.

Page 463.

SEC. 1784. Commissioner of agriculture.—The department of agriculture shall be continued and be under the control and management of one officer, who shall be known as "the commissioner of agriculture."

SEC. 1785. His appointment, term and bond.—He shall be appointed by the governor, by and with the advice and consent of the senate. His term of office shall be two years, beginning on the first day of January next succeeding the expiration of the term for which the commissioner in office at the time this code takes effect was appointed, who shall continue in office until his term shall have expired by limitation. The appointment shall be made biennially and prior to the day on which the term of the incumbent shall expire. Vacancies in the office shall be filled by the governor. Before the commissioner shall act as such, he shall qualify as provided by law, and execute before the governor a bond with sufficient surety, in the penalty of ten thousand dollars, with condition for the faithful discharge of the duties of his office.

SEC. 1786. His office.—The office of the commissioner shall be at the capital of the State. The register of the land office shall provide the same and the furniture therefor.

SEC. 1787. Clerk, chemist and geologist.—The commissioner shall be allowed one clerk, and may employ a chemist and a geologist to assist him in the performance of such of the duties imposed upon him as may require such assistance.

SEC. 1788. His duties.—The duties of the said commissioner shall be as follows:

First, to prepare hand book.—He shall prepare, as soon as may be (if it has not been done), a hand book containing a description of the minerals and geological formation of the several counties of the State, an estimate of the general capacity and character of the soil of each county, a careful analysis of the soil, and information as to its adaptation to the various agricultural products;

Second, to examine and test fertilizers; when sale prohibited.—He shall have under his charge the analysis of fertilizers sold to be used for agricultural purposes in this State. A fair sample of every fertilizer (except agricultural lime, agricultural *sale*, ground plaster, wood ashes, and German potash), proposed to be sold for such use, shall, before such sale, be furnished to the said commissioner, who shall examine and thoroughly test the same. If he shall find the fertilizer when so examined and tested, to be of no practical value

as a fertilizer, he shall notify the parties interested of the fact, and give them a fair opportunity to correct any injustice which may have been done them by mistake, accident, or otherwise. If thereupon he shall still find that the fertilizer is of no practical value as such, the sale thereof for use in this State as a fertilizer shall be prohibited. If any person sell any fertilizer (not one of the fertilizers above excepted) to be used as such in this State, without having first submitted a fair sample thereof to the said commissioner to be examined and tested as aforesaid, or sell the same to be used as a fertilizer in this State, after it has been found as aforesaid to be of no practical value as a fertilizer, he shall be fined for each offence not less than one hundred nor more than one thousand dollars, one-half of which shall go to the informer and the other half to the Commonwealth. No fees shall be charged by the commissioner for any analysis of fertilizers under the provisions of this chapter.

Third, mining and manufacturing statistics.—He shall give attention to the mining and manufacturing interests of the State and collect such statistical information in respect thereto as may be useful, or tend to foster and encourage the same ;

Fourth, cabinet of minerals.—He shall establish (if it has not already been done), in his office or some place convenient thereto, a cabinet, in which he shall deposit such specimens of rock, coal, ores, metals, and other mineral substances of the State, and of manufactured articles and models of inventions useful to the agricultural and industrial pursuits of the State, as he can conveniently obtain. He shall carefully label the specimens, designating the counties from which they were obtained, or the places where they were manufactured or made, as the case may be, and arrange them in proper order for public inspection. He shall also keep in his office or cabinet, conveniently arranged and open to the inspection of the public, all maps, surveys, and books and papers of a public character, belonging to the department ;

Fifth, special investigation of matters pertaining to agriculture, &c.—He shall inquire into and investigate matters pertaining to the cultivation of the soil and raising of crops, horticulture and fruit growing, the dairy, cattle and sheep raising, diseases of grain, fruit and other crops, and the remedies therefor, injury to crops by insects and the prevention thereof, irrigation, and enclosures ; and, in general, whatever relates especially to the agricultural interests of the State ;

Sixth, distribution of seeds.—He shall make arrangements for the importation of such seeds as he may deem of value to the people of this State and for the exchange of seeds of other States or foreign countries for the seeds of this State. He shall provide for the careful and judicious distribution among the people of the State of the seeds thus obtained and such as may be received by him from the Government of the United States ; and such distribution shall be under his exclusive supervision and control ;

Seventh, publication of information ; annual report.—He shall,

from time to time, give information upon the above subjects to the people of this State by circulars or pamphlets distributed through the agricultural associations or clubs in the State, and, if there be special need for it in any case, by publication in one or more newspapers in the State. He shall moreover, on the first day of November in each year, make a report to the governor, who shall communicate the same to the General Assembly at its first session thereafter. He shall state in his report what official duties he has performed during the year, and give such information and make such suggestions touching the agricultural interests of the State as he may deem useful.

SEC. 1789. Rules and regulations.—The said commissioner shall have power to make such rules and regulations, not inconsistent with the general law, as may be necessary for the due administration of the business of the department of agriculture under the provisions of this chapter.

SEC. 1790. Annual appropriation.—The sum of five thousand dollars per annum is hereby appropriated for the support and maintenance of the said department and the payment of the employees thereof, and no greater amount shall be expended for these purposes in any one year. It shall be drawn from the treasury by the commissioner under such rules and regulations as the governor shall prescribe.

165 This is objected to by the defendant as irrelevant, immaterial, and not properly proven.

By the JUDGE: Allowed.

The plaintiff reserves the right to produce the original volume on the hearing of this case.

To this the defendant does not consent.

The suit of The American Fertilizer Company against The Board of Agriculture of North Carolina, lately pending in this court, was commenced on the — day of — and was determined on the — day of —, the opinion being published in — volume of the Federal Reporter, on page —.

The defendant objects, not to the mode of proof, but to the subject-matter, as irrelevant and immaterial.

166 And I certify that the depositions were taken, sworn to, and subscribed as hereinbefore set forth, and the exhibits offered are herewith filed and marked as therein set forth.

W. T. SMITH,  
*Commissioner.*

167 STATE OF VIRGINIA, }  
City of Richmond. }

I, Thomas Whitehead, commissioner of agriculture of the State of Virginia, do hereby certify that the pamphlet hereto annexed, entitled Report of the State Board of Agriculture of Virginia for 1890, is a true copy of the original report which is on file in my office, the same having been published by the superintendent of public



printing under authority of law and being an official copy of the said original.

Witness my hand and official seal, in the city of Richmond, this 20th day of May, 1893.

THOMAS WHITEHEAD,  
*Com'r of Agr.*

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## EXHIBIT 11.

## COMMONWEALTH OF VIRGINIA :

I, P. W. McKinney, governor of the Commonwealth of Virginia, certify that Thomas Whitehead, whose name is signed to the within certificate, bearing date the 20th day of May, 1893, is and was at the time of signing commissioner of agriculture of the State of Virginia, duly appointed and qualified; that he is authorized by the laws of this State to make and sign such certificate, and that said certificate is in due form and is made by the proper officer, and that to all of his official acts full faith, credit, and authority are due and ought to be given.

In testimony whereof I have set my hand as governor and caused the great seal of State to be affixed. Done at the city of Richmond this 25th day of May, 1893, and in the 117th year of the Commonwealth.

P. W. McKINNEY, *Governor.*

By the governor :

H. W. FLOURNOY,

*Secretary of the Commonwealth and Keeper of the Seal.*

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*Report of the Commissioner of Agriculture.*

Commonwealth of Virginia, department of agriculture.

RICHMOND, VA., *September 30th, 1890.*

To the president and members of the State board of agriculture.

GENTLEMEN : I have the honor to present the following report of the work done and money expended in this department for the fiscal year ending 30th September, 1890.

The appropriation made to the department was \$10,000. The new fertilizer law produced \$8,100, and out of this the cost of carrying out that law was first to be paid. This was \$3,034.12, leaving \$5,065.88, which went into the treasury in part payment of the appropriation of \$10,000.

The auditor decided that the sums paid out by warrant of this department for expenses of chemical department were to be deducted from the \$10,000 appropriated, and that the board could expend no more than \$10,000 unless the fertilizer funds exceeded \$10,000, and then could only expend such excess.

The board applied to the attorney general for his opinion, believing that under the new fertilizer law the chemical department was to be supported first out of the fertilizer fund, and then any balance



of that fund would go into the treasury of the State, and that \$10,000 should be to their credit to be repaid only by any excess of receipts over expenditures in the execution of the fertilizer law, if any such excess.

The opinion of the attorney general was received, which the board believed sustained them; but, as no case could be made for judicial decision before the \$10,000 was exhausted, nothing was done, and the board proceeded to restrict their expenditures inside the \$10,000, necessarily curtailing immigration and other subjects on account of the increased cost of the chemical department under the new act.

Of the \$10,000 appropriated the board has expended \$8,446.25, \$3,034.12 of which sum was for the chemical department for seven months under the new fertilizer act.

There has been paid to the State treasurer \$8,100 under the new act and \$300 under the old law, making \$8,400 paid by this department into the treasury during the fiscal year, a sum lacking only \$46.25 of the whole amount expended for the annual appropriation, and this balance is reduced \$41.38, reported in contingent fund received from county immigration agents, making the excess of expenditures of the department over receipts \$4.87.

I herewith file the opinion of the attorney general by direction of the board.

I herewith file an itemized account of all expenditures in the department, including the small amount of contingent fund remaining on hand, accompanied by vouchers for such expenditures.

I have the honor to submit for your consideration herewith the twelfth annual report of the commissioner of agriculture, required by law to be made to the governor of the State. I also file the report of the chemist, Mr. R. H. Gaines, and that of the inspector and sampler of fertilizers, Mr. Irving P. Whitehead.

Respectfully submitted.

THOMAS WHITEHEAD,  
*Commissioner of Agriculture.*

171 STATE OF VIRGINIA, {  
City of Richmond, }

I, Thomas Whitehead, commissioner of agriculture of the State of Virginia, do hereby certify that the pamphlet hereto annexed, entitled Report of the State Board of Agriculture of Virginia for 1891, is a true copy of the original report which is on file in my office, the same having been published by the superintendent of public printing under authority of law and being an official copy of the said original.

Witness my hand and official seal, in the city of Richmond, this 20th day of May, 1893.

THOMAS WHITEHEAD,  
*Com'r of Agr.*

[SEAL.]

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## EXHIBIT 12.

## COMMONWEALTH OF VIRGINIA:

I, P. W. McKinney, governor of the Commonwealth of Virginia, certify that Thomas Whitehead, whose name is signed to the within certificate, bearing date the 20th day of May, 1893, is and was at the time of signing commissioner of agriculture of the State of Virginia, duly appointed and qualified; that he is authorized by the laws of this State to make and sign such certificate, "and that said certificate is in due form and is made by the proper officer," and that to all of his official acts full faith, credit, and authority are due and ought to be given.

In testimony whereof I have set my hand as governor and caused the great seal of State to be affixed. Done at the city of Richmond this 25th day of May, 1893, in the 117th year of the Commonwealth.

P. W. McKINNEY, *Governor.*

By the governor:

H. W. FLOURNOY,

*Secretary of the Commonwealth and Keeper of the Seal.*

173

*Report of the Commissioner of Agriculture.*

DEPARTMENT OF AGRICULTURE,  
RICHMOND, September 28th, 1891.

To the president and members of the State board of agriculture.

GENTLEMEN: I have the honor to present the following report of the work done and money expended in this department for the fiscal year ending 30th September, 1891:

The regular routine work of the department has considerably increased. The collection and examination of minerals and ores, soils and fertilizing material, is much greater. The reports of insects and diseases of plants to the department and the necessary investigation to suggest remedies is much greater than ever before.

Three farmers' institutes have been held this year under the resolution of the board and had given great satisfaction, and many other localities desired to have them, but could not come within the requirements of the board. Besides this, your commissioner felt it his duty, under former advice of the board, to attend a number of agricultural gatherings held by granges, clubs, and agricultural societies to give aid and help to the work of agricultural development, and he has been compelled from pressure of business to decline a very large number.

The collection of statistics in regard to the crops, stock, fruit, and vegetables of the State, as well as the enquiry about the settlement and condition of immigrants, has been greater and more thorough than heretofore, though I am compelled still to report that without

legislation it is impossible to get full and accurate statistics on these subjects.

The work of the pomological committee has been earnest  
174 and at last successful in bringing the State to the front among the fruit-producing areas. These duties have not only increased the work of the department office, but necessarily the expenditures for printing and postage. The employees of the department have discharged their duties faithfully and well.

From the report of the department chemist and inspector herewith filed, it will be seen that the consumption of fertilizers in the State has greatly increased, and that the work of analyzing, inspecting, and investigating, in order to give satisfaction to purchasers, has greatly increased and has been well done.

The appropriation made to the department for all purposes is \$10,000. The work in the chemist's department produced \$7,600, which went into the treasury of the State, leaving \$2,400 of the appropriation of \$10,000 to be used by your board.

Expenditures for all purposes are by warrant \$10,135.20 and out of the contingent fund \$36.75 and were made by warrant for the following purposes: For immigration, \$1,557.62; for printing, \$1,446.20; for postage, \$380; for farmers' institutes, \$890.11; for salaries of employees, \$3,672.50; for rent, \$750; for laboratory, \$400.72; expenses of board, \$798.65; incidentals, \$74.13; publication, \$58.12. The fertilizer law requires that its expenditures shall be kept separate and distinct. It produced \$7,600 and there was expended for carrying on its work \$4,233.29, leaving \$3,366.71 going into the treasury without consideration to the farmers and planters who paid it.

I herewith file an itemized account, supported by proper vouchers, including that for small items paid out of the contingent fund. I  
also file herewith, for consideration of the board, the thir-  
175 teenth annual report of the commissioner of agriculture, required by law to be made to the governor.

All of which is respectfully submitted.

THOMAS WHITEHEAD,  
*Commissioner of Agriculture.*

#### 176 CITY OF RICHMOND:

I, Thomas Whitehead, commissioner of agriculture of the State of Virginia, do hereby certify the pamphlet hereto annexed, entitled Report of the State Board of Agriculture of Virginia for 1892, is a true copy of the original report which is on file in my office, the same having been published by the superintendent of public printing under authority of law and being an official copy of the original.

Witness my hand and official seal, in the city of Richmond, this 20th day of May, 1893.

[SEAL.]

THOMAS WHITEHEAD,  
*Com'r of Agr.*

177

## EXHIBIT 13.

## COMMONWEALTH OF VIRGINIA:

I, P. W. McKinney, governor of the Commonwealth of Virginia, certify that Thomas Whitehead, whose name is signed to the within certificate, bearing date the 20th day of May, 1893, is and was at the time of signing commissioner of agriculture of the State of Virginia, duly appointed and qualified; that he is authorized by the laws of this State to make and sign such certificate, and that said certificate is in due form and is made by the proper officer, and that to all of his official acts full faith, credit, and authority are due and ought to be given.

In testimony whereof I have set my hand as governor and caused the great seal of State to be affixed. Done at the city of Richmond this 25th day of May, 1893, and in the 117th year of the Commonwealth.

P. W. McKINNEY, *Governor.*

By the governor:

H. W. FLOURNOY,

*Secretary of the Commonwealth and Keeper of the Seal.*

178

*Report of the State Board of Agriculture.*

To his excellency P. W. McKinney, governor of Virginia.

SIR: I have the honor to submit the fifth annual report of the State board of agriculture, to which your attention is invited.

The board has found itself somewhat embarrassed by the terms of appropriation. While the amount has been somewhat increased, there is lack of authority from the legislature to use any part of the fund appropriated directly for immigration.

The annual appropriation of \$10,000 has, by the largely increased work of the department, been insufficient for the expenses in properly carrying out the intention of the legislature and the wishes of the people. The amount received from fertilizer fees and work in the laboratory has in the past been put in gross into the treasury.

The last appropriation act struck out that proviso, but it was too late in the fiscal year for the board to avail itself of it fully, and only a part could be used, and \$4,471.38 was returned to the treasury on the 30th of September, which include \$529.22 for the general appropriation. Legislation, distinct and simple, is greatly needed in regard to fertilizer control and the direct application of the money arising from the work of the department laboratory.

The board has been quite successful in holding farmers' institutes in different sections of the State, and, while the attendance of farmers has been generally small, the addresses of the distinguished gentlemen invited to address these institutes have been so full and valuable in the interests of agriculture and diversified industries that the board has deemed it proper to publish most

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of them in the annual reports for the instruction of the people of the State.

The inspection and analyses of fertilizers has been much larger than in any previous year, and has been attended with greatly increased labor and cost.

By the action of the legislature the expenses of the department have been considerably increased by the cost of transportation of all officers and employees of the department, which was heretofore granted free of charge.

The board has taken active measures to secure at an early day the publication of a hand book, as required under the law. It is their purpose to make this hand book as full as possible, embracing a report of each county in the State as well as a general report embracing all the information necessary to give a full exhibit of population and products, etc., of the different counties and sections of the State, with an accurate map of Virginia and also a map and chart of her geological deposits, together with such other literature as may be deemed necessary for the interest and information of the farmers of Virginia and other persons seeking the same.

It is their purpose to publish a sufficient number of hand books, with an ample supply of other literature, to supply the farmers and others of Virginia and also for distribution among the visitors at the World's fair, which will, in the opinion of the board, afford such facilities for making Virginia known as has never been offered before. It is a source of congratulation that the farmers of Virginia during the present year have given more attention to diversified crops than heretofore; and while their surplus of all the various products will have to be disposed of at a low price, they will  
180 have a better supply of food at home than for many years previous.

We would respectfully submit for your consideration the enactment of such laws as will secure a full and accurate annual statistical report as will furnish reliable information as to population, crops of the various kinds, new industries, etc., as will hereafter show in all respects the growth and improvement of the State in reliable form, as is provided for in most of the States.

We would direct your special attention to the very full and elaborate report of the commissioner and the accompanying documents, and especially his suggestion for the purchase of an experiment farm to be operated largely by convict labor under the direction of the board.

This is a new question in this State; and while the board is not fully prepared to endorse the suggestion, they are of the opinion that under proper regulation of law it might be operated with some profit to the State and the experiment might furnish the farmers and others in Virginia valuable and reliable information. The operation and success in other States are well worthy of your investigation in forming a conclusion on this subject.

We deem it proper to state that the commissioner and all the employees have discharged their respective duties well and in a manner satisfactory to the board.

We would most respectfully direct your attention to the suggestions for legislation on various subjects for the benefit of the farmers of Virginia contained in our last annual report for such action as you may deem proper. We have seen no reason to change our opinion upon the recommendations then made, and hope that some future legislature will take up these various subjects and give them the consideration we think they demand.

Respectfully submitted.

W. T. SUTHERLIN, *President.*

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Ex. 13.

*Fertilizer Fund.*

Salaries of employees.

1891.

Oct. 27.	To R. H. Gaines, chemist, salary October, warrant 163.....	\$125 00
	I. P. Whitehead, inspector, salary October, warrant 164....	75 00
	B. F. Finney, assistant chemist, salary October, warrant 165.....	75 00
	William Baker, porter, salary October, warrant 166.....	12 50
Nov. 25.	R. H. Gaines, chemist, salary November, warrant 167.....	125 00
	I. P. Whitehead, inspector, salary November, warrant 168.....	75 00
	William Baker, porter, salary November, warrant 169.....	12 50
Dec. 24.	R. H. Gaines, chemist, salary December, warrant 171.....	125 00
	I. P. Whitehead, inspector, salary December, warrant 172.....	75 00
	William Baker, porter, salary December, warrant 173.....	12 50

1892.

Jan. 30.	I. P. Whitehead, inspector, salary January, warrant 176....	75 00
	R. H. Gaines, chemist, salary January, warrant 177.....	125 00
	William Baker, porter, salary January, warrant 178.....	12 50
Feb. 29.	R. H. Gaines, chemist, salary February, warrant 183.....	125 00
	I. P. Whitehead, inspector, salary February, warrant 184....	75 00
	William Baker, porter, salary February, warrant 185.....	12 50
Mar. 31.	R. H. Gaines, chemist, salary March, warrant 186.....	125 00
	I. P. Whitehead, inspector, salary March, warrant 187.....	75 00
	G. de Chalmot, assistant chemist, salary (half) March, warrant 188.....	37 50
	William Baker, porter, salary March, warrant 189.....	12 50
Apr. 30.	R. H. Gaines, chemist, salary April, warrant 200.....	125 00
	I. P. Whitehead, inspector, salary April, warrant 201.....	75 00
	G. de Chalmot, assistant chemist, salary April, warrant 202.....	75 00
	William Baker, porter, salary April, warrant 203.....	12 50
May 31.	R. H. Gaines, chemist, salary May, warrant 211.....	125 00
	I. P. Whitehead, inspector, salary May, warrant 212.....	75 00
	G. de Chalmot, assistant chemist, salary May, warrant 213.....	75 00

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	William Baker, porter, salary May, warrant 214.....	12 50
Jun- 30.	R. H. Gaines, chemist, salary June, warrant 222.....	125 00
	I. P. Whitehead, inspector, salary June, warrant 223.....	75 00
	G. de Chalmot, assistant chemist, salary June, warrant 224.....	75 00
	William Baker, porter, salary June, warrant 225.....	12 50
July 30.	R. H. Gaines, chemist, salary July, warrant 233.....	125 00
	I. P. Whitehead, inspector, salary July, warrant 234.....	75 00
	G. de Chalmot, assistant chemist, salary July, warrant 235.....	75 00
	William Baker, porter, salary July, warrant 236.....	12 50
Aug. 23.	I. P. Whitehead, inspector, salary August, warrant 239....	75 00
31.	R. H. Gaines, chemist, salary August, warrant 241.....	125 00
	G. de Chalmot, assistant chemist, salary August, warrant 242.....	75 00
	William Baker, porter, salary August, warrant 243.....	12 50

Sep. 30.	R. H. Gaines, chemist, salary September, warrant 259.....	125 00
	G. de Chalmot, assistant chemist, salary September, warrant 260 .....	75 00
	I. P. Whitehead, inspector, salary September, warrant 261.....	75 00
	William Baker, porter, salary September, warrant 262.....	12 50

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\$3,112 50

## Laboratory.

1891.		
Oct. 3.	To Powers, Taylor & Co., chemicals, warrant 157 .....	16 46
5.	Eimer & Amend, chemicals, warrant 159.....	147 16
10.	Eimer & Amend, rubber dick, warrant 161.....	1 55
1892.		
Mar. 31.	J. H. Brower, repairs to laboratory, warrant 190 .....	5 00
Apr. 4.	Eimer & Amend, chemicals, warrant 193.....	77 68
12.	Powers, Taylor & Co., chemicals, warrant 198 .....	16 66
30.	Eimer & Amend, chemicals, warrant 204.....	41 47
May 7.	Powers, Taylor & Co., chemicals, warrant 205 .....	16 41
31.	Eimer & Amend, chemicals, warrant 215.....	12 99
Jun- 13.	Powers, Taylor & Co., chemicals, warrant 216 .....	29 25
17.	R. H. Gaines, chemist, expenses trip to consult architect in regard to laboratory of library building, warrant 219.....	14 00
25.	Eimer & Amend, chemicals, warrant 220 .....	26 45
Jul- 5.	Powers, Taylor & Co., chemicals, warrant 229.....	21 87
20.	Eimer & Amend, chemicals, warrant 232.....	6 62
Aug. 6.	Powers, Taylor & Co, chemicals, warrant 238.....	13 61
Sep. 3.	Eimer & Amend, chemicals, warrant 251.....	5 93
12.	Powers, Taylor & Co., chemicals, warrant 253 .....	15 16
21.	Eimer & Amend, chemicals, warrant 258 .....	51 18

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512 45

## 183 Incidentals.

1891.		
Oct. 8.	To R. H. Gaines for freight and drayage on chemicals, warrant 160 .....	2 61
14.	R. H. Gaines for contingent expenses of laboratory, warrant 162 .....	5 00
1892.		
Apr. 1.	R. H. Gaines, contingent expenses of laboratory, warrant 191.....	10 00
May 20.	James Hayes, repairs, warrant 208 .....	4 00
Jun- 25.	R. H. Gaines, contingent expenses of laboratory, warrant 221.....	10 00
30.	James Hayes, repairs, warrant 227 .....	3 00
Aug. 31.	George D. Pleasants & Son, insurance to August, 1893, warrant 244.....	10 00
Sep. 3.	Warrant 249 cancelled.....	
15.	James Hayes, repairs, warrant 254 .....	5 00
	B. F. Smith, safe for office, warrant 255 .....	70 00
	J. H. Brower, one draining stand, warrant 263.....	3 50

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\$123 11

## Publications.

1892.		
Apr. 9.	To R. H. Gaines, periodicals, warrant 197 .....	21 86

## Printing &amp; stationery.

1892.		
Feb. 8.	To Everett Wadley Co., printing, warrant 181.....	3 00
Apr. 9.	Everett Wadley Co., printing & stationery, warrant 196.....	20 50
May 11.	Ditto, 206.....	32 01
June 13.	Ditto, 217.....	36 75
Jul- 15.	Ditto, 231.....	67 75
Aug. 27.	Ditto, 240.....	25 00
Sep. 10.	Ditto, 252.....	13 75

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198 76



## Rent.

1891.			
Oct. 30.	To S. S. Cottrell, quarter ending Sep. 30th, 1891, warrant 158..	75	00
1892.			
Jan. 4.	S. S. Cottrell, quarter ending Dec. 31st, 1891, warrant 174...	75	00
Apr. 4.	S. S. Cottrell, quarter ending March 31st, 1892, warrant 195.	75	00
Jul- 5.	S. S. Cottrell, quarter ending June 30th, 1892, warrant 228..	75	00

300 00

## Expenses board of agriculture.

1892.			
Feb. 8.	To A. H. Tuttle, expenses while attending, by request of board, special committee on fertilizer bill, &c., warrant 180.....	15	65
May 25.	Exchange & Ballard hotel, expenses H. L. Lyman, member special committee on fertilizer bill, &c., warrant 210.....	56	35

72 00

## Postage.

1891.			
Dec. 1.	To Richmond postmaster, warrant 170.....	5	00
1892.			
Feb. 8.	Richmond postmaster, warrant 179.....	30	00
12.	Ditto, 182.....	45	00
Apr. 1.	Ditto, 192.....	20	00
		100	00
184		100	00
June 30.	To Richmond postmaster, warrant 226.....	20	00

120 00

## Expenses of inspection.

1892.			
Jan. 7.	To I. P. Whitehead, expenses inspection, warrant 175.....	5	00
Apr. 4.	J. H. Gregg, 1 sample case, warrant 194.....	3	59
16.	I. P. Whitehead, expenses inspection, warrant 199.....	7	73
May 19.	Richmond China Co., 1 gross sample jars, warrant 207.....	9	00
21.	I. P. Whitehead, expenses inspection, warrant 209.....	17	10
Jun- 15.	Do. 218.....	7	83
July 5.	Do. 230.....	15	25
Aug. 5.	Do. 237.....	9	10
31.	T. J. Stratton, services as local sampler, warrant 245.....	10	00
	John D. Potts, D. P. A., C. & O. R. R., 1,000-mile ticket, warrant 246.....	25	00
	R. W. Courtney, P. A. N. & W. R. R., 1,000-mile ticket, warrant 247.....	25	00
	J. S. Potts, P. A. R. & D. R. R., 1,000-mile ticket, warrant 248.	25	00
Sep. 3.	Cottrell, Watkins & Co., 4 tryers, warrant 250.....	8	00
15.	E. B. Taylor Co., 2 gross sample jars, warrant 256.....	18	00
	Southern Rubber Co., 5 wax seals, warrant 257.....	6	25
30.	I. P. Whitehead, expenses inspection, warrant 264.....	5	40

\$197 16

185      UNITED STATES OF AMERICA, }  
           *Eastern District of North Carolina.* }

In the U. S. Circuit Court at Raleigh, Fourth Circuit. In Equity.  
 June Term, 1893.

THE PATAPSCO GUANO COMPANY, for Itself  
 and All Other Non-resident Dealers and  
 Manufacturers of Commercial Fertil-  
 izers Who Shall Come in and Make  
 Themselves Parties to and Contribute  
 to the Expenses of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH  
 Carolina and W. S. Primrose, W. F.  
 Green, S. B. Alexander, H. E. Fries, N.  
 B. Broughton, W. R. Williams, J. B.  
 Coffield, W. R. Capehart, W. E. Stevens,  
 J. S. Murrow, J. F. Payne, A. Leazar, S.  
 L. Patterson, C. D. Smith, Elias Carr,  
 and John Robinson, Commissioner.

} Decree Dismissing Bill.

This cause coming on to be heard upon the pleadings, deposi-  
 tions, and exhibits, and being argued by counsel on both sides, the  
 court doth declare that, for the reasons set forth in the opinion  
 heretofore filed in this cause by the court, the plaintiff is not enti-  
 tled to the relief demanded in its bill, and—

It is therefore ordered, adjudged, and decreed that the plaintiff's  
 said bill be dismissed with costs.

And, upon the motion of the solicitors for the defendant, it is  
 adjudged and decreed that the defendants recover of the plaintiff  
 and its sureties for the prosecution its costs of suit, to be taxed by  
 the clerk.

A. S. SEYMOUR,  
*Dist. Judge.*

BATTLE & MORDECAI AND  
 BUSBEE & BUSBEE,  
*Solicitors for Defendants.*

Decree dismissing the bill at the costs of the complainant filed  
 July 16, 1893.

N. J. RIDDICK, *Clerk*,  
 By V. ROYSTER, *Dep. Clerk.*

186 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of Itself and All Other Non-resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in and Make Themselves Parties to and Contribute to the Expenses of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA, W. S. Primrose, W. F. Green, S. B. Alexander, H. E. Fries, N. B. Broughton, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, Elias Carr, and John Robinson, Commissioner of Agriculture.

Assignment  
of Error.

The plaintiff, The Patapsco Guano Company, having appealed from the final decree of this court in the above-entitled cause to the Supreme Court of the United States, makes the following assignment of errors:

I. That the court below held that the act of the General Assembly of North Carolina entitled "An act to amend chapter one, volume two, of the Code, relating to agriculture and geology," ratified on the 21st day of January, 1891, imposing a tonnage tax of twenty-five cents on each and every ton of fertilizer or fertilizing material made or brought into the State, to be paid before delivery to agents, dealers, and consumers in the State or before a sale or offer to sell the same, and subjecting any person violating the provisions of said act to criminal prosecutions and penalties, is not unconstitutional, null, and void, in that it is repugnant to so much of section eight of article one of the Constitution of the United States as provides that "the Congress shall have power \* \* \* to regulate commerce with foreign nations and among the several States and with the Indian tribes."

187 II. That it held that said charge or tax is not repugnant to so much of subsection two of section ten of article one of said Constitution as provides that "no State shall, without the consent of Congress, lay any imposts or duties on imports and exports, except what may be absolutely necessary to execute its inspection laws," and therefore is null and void.

III. That it held that said charge or tax is an inspection law within the contemplation of said clause of said Constitution, and therefore constitutional and valid.

IV. That it held that the said charge or tax is applicable by law exclusively to purposes of inspection of fertilizers and fertilizing materials, whereas it should have held that the same, upon the face of the various statutes relating to the subject, is applicable to purposes foreign to inspection, to wit, to pay the salary of the analyst

(Code, section 2196); the expenses of the Geological Museum and publication of the Geology of North Carolina (Code, section 2198); the expenses of preparing hand books, with illustrated maps, in regard to mines, minerals, forests, soils, climates, and water powers, fisheries, mountains, swamps, industries, and other statistics, to give information to immigrants, and to make expositions thereof and to offer premiums (Code, sec. 2199); the expenses of immigration agents (section 2200); the expenses of establishing and keeping a general land and mining registry (section 2201); expenses of the North Carolina Industrial Association, five hundred dollars per year (2206); expenses of the North Carolina Industrial School (Agricultural & Mechanical College), five thousand dollars per year (Acts 188 1885, ch. 308, section 4; Acts 1887, ch. 2110, sec. 1); the expenses of publication of geological reports. (Acts 1887, ch. 409, sec. 15.)

V. It is held that the said tax is absolutely necessary to execute the inspection of fertilizers, whereas it should have held that the tax is much in excess of what is absolutely necessary therefor.

VI. That the court refused to consider the evidence introduced to show that the amount of money raised by said tax was much in excess of what was absolutely necessary for that purpose.

VII. That the evidence showed that the tonnage tax collected from January 21st, 1891, to January 1st, 1892, was \$33,264.08, and the absolutely necessary expenses of executing the inspection did not exceed \$10,000, and the court held that this excess was not material to show that the charge was not an inspection law under the Constitution.

VIII. That the evidence showed that the tonnage tax collected from January 1st, 1892, to January 1st, 1893, amounted to \$27,690.16, and the necessary cost of inspection did not exceed \$10,000, and the court held that this excess was not material to show that it was not an inspection law.

IX. That the *the* evidence showed that the tonnage tax collected for the months of January, February, March, April, and a part of May, 1893, was \$22,567.25, and the cost of inspection did not exceed \$5,000, and the court held that this excess was not material to show that it was not an inspection law.

X. That the court did not hold that the tax was colorably an inspection charge only.

XI. That the court did not hold that the said charge was  
189 excessive, and as such shows a purpose to evade the intentions of the Constitution.

XII. That the court held that said charge is a police regulation and the legislature of North Carolina had the power to exact it.

XIII. That the court held that, notwithstanding the evidence and the admissions in the answer of the defendants show that much the larger portion of said tax was not necessary for purposes of inspection and was appropriated and applied to purposes foreign thereto, that the said act is an inspection law, and said tax is absolutely necessary for executing said law.

XIV. That the court dismissed the bill of the complainants.

T. N. HILL &  
J. W. HINSDALE,  
*Solicitors for Complainant.*

Assignment of errors filed Dec. 7, 1893.

N. J. RIDDICK, *Clerk*,  
By V. ROYSTER, *Dep. Clk.*

190 In the Circuit Court of the United States for the Fourth  
Circuit and Eastern District of North Carolina, Sitting in  
Equity.

THE PATAPSCO GUANO COMPANY, in Behalf of  
Itself and All Other Non-resident Dealers  
and Manufacturers of Commercial Fertilizers  
Who Shall Come in and Make Themselves  
Parties to and Contribute to the Expenses  
of this Suit,

*against*

THE BOARD OF AGRICULTURE OF NORTH CARO-  
lina and W. S. Primrose, W. F. Green, S. B.  
Alexander, H. E. Fries, N. B. Broughton, W.  
R. Williams, J. B. Coffield, W. R. Capehart,  
W. E. Stevens, J. S. Murrow, J. F. Payne,  
A. Leazar, S. L. Patterson, C. D. Smith, Elias  
Carr, and John Robinson, Commissioner of  
Agriculture.

Petition for Ap-  
peal & Order  
Allowing Ap-  
peal.

The above-named plaintiff, The Patapsco Guano Company, feel-  
ing itself aggrieved at the decree entered at June term, 1893, of  
said court and filed on June 16th, 1893, in the above-entitled pro-  
ceeding, doth hereby appeal from the said decree to the Supreme  
Court of the United States, and it prays that this appeal may be  
allowed, and that a transcript of the record and proceedings and  
papers upon which said decree was made, duly authenticated, may  
be sent to the Supreme Court of the United States.

T. N. HILL AND  
JOHN W. HINSDALE,  
*Attorneys for Plaintiff and Appellant, Raleigh, N. C.*

And now, to wit, Dec. 7th, 1893, it is ordered that the appeal be  
allowed as prayed for.

A. S. SEYMOUR,  
*District Judge.*

Petition for appeal & order allowing appeal filed Dec. 7th, 1893.

N. J. RIDDICK, *Clerk*,  
By V. ROYSTER, *Dep. Clerk.*

- 191 In the Circuit Court of the United States for the Fourth Circuit and Eastern District of North Carolina, Sitting in Equity.

THE PATAPSCO GUANO COMPANY, for Itself and All Other Non-resident Dealers and Manufacturers of Commercial Fertilizers Who Shall Come in and Make Themselves Parties Hereto and Contribute to the Expenses of this Suit, Appellant,  
*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and W. R. Williams, R. W. Wharton, W. R. Capehart, J. B. Coffield, W. E. Stevens, W. F. Green, J. S. Murrow, J. F. Payne, S. L. Patterson, A. Leazar, C. D. Smith, and John Robinson, Commissioner of Agriculture, Respondents.

Appeal Bond.

Know all men by these presents that we, The Patapsco Guano Company of Baltimore, Md., and W. H. Grafflin, of Baltimore, Md., are held and firmly bound unto the above-named The Board of Agriculture of North Carolina and W. R. Williams, R. W. Wharton, W. R. Capehart, J. B. Coffield, W. E. Stevens, W. F. Green, J. S. Murrow, J. F. Payne, S. L. Patterson, A. Leazar, C. D. Smith, and John Robinson, commissioner of agriculture, in the sum of five hundred dollars, to be paid to the said The Board of Agriculture of North Carolina and W. R. Williams, R. W. Wharton, W. R. Capehart, J. B. Coffield, W. E. Stevens, W. F. Green, J. S. Murrow, J. F. Payne, S. L. Patterson, A. Leazar, C. D. Smith, and John Robinson, commissioner of agriculture; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our successors, heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 12th day of June, 1893.

Whereas the above-named The Patapsco Guano Company has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the  
 192 judge of the circuit court of the United States for the eastern district of North Carolina:

Now, therefore, the condition of this obligation is such that if the above-named The Patapsco Guano Company shall prosecute said appeal to effect and answer all damages and costs if it fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

THE PATAPSCO GUANO COMPANY,  
 By GEO. W. GRAFFLIN, *Pr's't.* [SEAL.]  
 W. H. GRAFFLIN. [SEAL.]

Sealed and delivered and taken and acknowledged by the Patapsco Guano Company and Wm. H. Grafflin this 10th day of June, 1893, before me—

G. EVETT REARDON,  
A Commissioner of Affidavits for the State of North  
Carolina in the State of Maryland, Residing at  
Baltimore City, 100 E. Lexington St.

STATE OF MARYLAND, }  
City of Baltimore. }

Wm. H. Grafflin, being duly sworn, says that he is worth one thousand dollars over and above his debts and liabilities and in excess of his homestead and personal property exemptions.

WM. H. GRAFFLIN. [SEAL.]

Sworn and subscribed before me this 10th day of June, 1893.

G. EVETT REARDON,  
A Commissioner of Affidavits for the State of North  
Carolina in the State of Maryland, Residing at  
Baltimore City, 100 E. Lexington St.

Foregoing bond approved and accepted.

A. S. SEYMOUR,  
Dist. Judge.

Dec. 7th, 1893.

193 In the Circuit Court of the United States for the Fourth  
Circuit and Eastern District of North Carolina, Sitting in  
Equity.

THE PATAPSCO GUANO COMPANY, Plaintiff, Appellant,  
against

THE BOARD OF AGRICULTURE OF NORTH CAROLINA  
and W. F. Green, W. R. Williams, J. B. Coffield, W. R.  
Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne,  
A. Leazar, S. L. Patterson, C. D. Smith, R. W. Whar-  
ton, and John Robinson, Commissioner of Agriculture  
of North Carolina, Defendants, Respondents.

Citation.

UNITED STATES OF AMERICA, ss :

To the Board of Agriculture of North Carolina and W. F. Green,  
W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J.  
S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith,  
R. W. Wharton, and John Robinson, commissioner of agricult-  
ure of North Carolina, Greeting :

You are hereby cited and admonished to be and appear at a Su-  
preme Court of the United States, to be holden at Washington, on  
the sixth day of January, one thousand eight hundred and ninety-  
four, pursuant to appeal filed in the clerk's office of the circuit court



for the eastern district of North Carolina, wherein The Patapsco Guano Company is appellant and The Board of Agriculture of North Carolina and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Patterson, C. D. Smith, R. W. Wharton, and John Robinson, commissioner of agriculture of North Carolina, are respondents, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States, this 7th day of December, 1893.

A. S. SEYMOUR,  
*District Judge.*

194

No. 163, E.

In the U. S. Circuit Court, Eastern District of North Carolina.

THE PATAPSCO GUANO COMPANY, in Behalf, &c.,  
*vs.*

THE BOARD OF AGRICULTURE OF N. C. *et als.*

Citation filed Dec. 7th, 1893.

N. J. RIDDICK, *Clerk*,  
By V. ROYSTER,  
*Dep. Clerk.*

Served on R. H. Battle, attorney for defendant, by reading the within citation to him and leaving a copy thereof with him.

J. B. HILL, *U. S. M.*,  
By C. D. HEARTT, *Dept.*

Dec'r 13th, 1893.

195 United States Circuit Court, Eastern District of North Carolina, at Raleigh.

PATAPSCO GUANO COMPANY, for Itself, &c.,  
*against*

THE BOARD OF AGRICULTURE OF NORTH CAROLINA and Others. }

It is stipulated and agreed that the clerk of this court shall not copy and certify in the transcript of record herein for the Supreme Court of the U. S. the affidavits and proceedings in respect to the restraining order or injunction and the exhibits or portions of the same which are attached to the depositions and other portions of the record in this cause which do not appear in the foregoing transcript, the same being unnecessary to said appeal.

THOS. N. HILL &  
J. W. HINSDALE,  
*Solicitors for Complainants.*  
BATTLE & MORDECAI,  
*Of Solicitors for Defendants.*

Raleigh, N. C., Jan. 2nd, 1894.

196

UNITED STATES OF AMERICA, }  
*Eastern District of North Carolina.* }

Circuit Court, Fourth Circuit.

I, N. J. Riddick, clerk of the circuit court of the United States for the fourth circuit & eastern district of North Carolina, do hereby certify the above and foregoing to be a full, true, and perfect transcript from the record of all the proceedings which have been had in the cause in said court wherein The Patapsco Guano Company, in behalf of itself and all other non-resident dealers and manufacturers of commercial fertilizers who shall come in and make themselves parties hereto and contribute to the costs and expenses of this suit, are complainants and The Board of Agriculture of North Carolina and W. F. Green, W. R. Williams, J. B. Coffield, W. R. Capehart, W. E. Stevens, J. S. Murrow, J. F. Payne, A. Leazar, S. L. Paterson, C. D. Smith, and John Robinson, commissioner of agriculture, are defendants, as appears from the record of said court remaining in my custody, except the affidavits and proceedings in respect to the restraining order or injunction and the exhibits or portions of the same which are attached to the depositions and other portions of the record in the cause which do not appear in the foregoing transcript and which have been omitted by stipulation of counsel for both parties as unnecessary to be certified on this appeal.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at office, in Raleigh, in said district, this 2nd day of January, 1894.

[Seal United States Circuit Court, Eastern Dist. of N. C.]

N. J. RIDDICK,  
*Clerk United States Circuit Court, Fourth Circuit  
and Eastern District of North Carolina.*

Endorsed on cover: Case No. 15,477. E. North Carolina C. C. U. S. Term No., 620. The Patapsco Guano Company, appellant, vs. The Board of Agriculture of North Carolina, W. R. Williams *et al.*, commissioners. Filed January 4th, 1894.